

CONFIDENTIAL

CAI

Z3

-68L55S



3 1761 11971174 5

TITLE: THE INDUSTRIAL RELATIONS SYSTEM OF THE FISHING INDUSTRY

AUTHOR: Dr. John D. Boyd
University of British Columbia,
Vancouver 8, B. C.

Canada

DRAFT STUDY

prepared for

TASK FORCE ON LABOUR RELATIONS
(Privy Council Office)

Excluded

PROJECT NO. 55 (s)

Submitted: NOVEMBER 1968

This draft study is deposited for library use
with the compliments of the author but must not be
quoted without his written permission.



Digitized by the Internet Archive
in 2023 with funding from
University of Toronto

<https://archive.org/details/31761119711745>

CA 25
-684553
CONFIDENTIAL

TITLE: THE INDUSTRIAL RELATIONS SYSTEM OF THE FISHING INDUSTRY

AUTHOR: Dr. John D. Boyd
University of British Columbia,
Vancouver 8, B. C.

DRAFT STUDY

prepared for

TASK FORCE ON LABOUR RELATIONS
(Privy Council Office)

PROJECT NO.: 55 (s)

Submitted: NOVEMBER 1968

This draft study is deposited for library use
with the compliments of the author but must not be
quoted without his written permission.



Dr. John A. Boyd
University of British Columbia
Vancouver 8, B.C.

DR. J. A. BOYD
UNIVERSITY OF BRITISH COLUMBIA
VANCOUVER 8, B.C.
TAXI FOLIO ON FUTURE RELATIONS
(Page 1 of 1)

PROJECT NO. 1-1 (1)
RESEARCHER NAME
RESEARCHER ADDRESS

This study should be considered for library use
with the knowledge of the author and not for
other purposes without the author's permission.

STUDIES

Report No.

Copy No.

Remarks (draft, final, etc.)

revised draft

TABLE OF CONTENTS

| | Page |
|--|------|
| Introduction | 1 |
| Section I, Structure of the West Coast Fishing Industry | 5 |
| Section II, The Role of Government in the Fishing Industry | 19 |
| Section III, Provincial and Federal Government Legislation Affecting the Fishing Industry | 26 |
| Section IV, The Rationalization of the Fishing Industry | 36 |
| Section V, Collective Bargaining and Negotiation | 48 |
| Section VI, Existing Regulations and Agreements in the West Coast Fishing Industry | 63 |
| Section VII, The Status of Fishermen | 75 |
| Section VIII, Exogenous Factors That Affect The Conduct of Labour Relations - The Attitudes and Philosophy of the Union Leadership | 89 |
| Summary and Conclusions | 94 |
| Appendix, Individuals Contacted with Regard to This Study | 102 |

INTRODUCTION

The terms of reference of this study are the development and operation of the labour relations system within the fishing industry in Canada. The fishing industry of Canada can most readily be divided into the Atlantic Coast Fishery, the Pacific Coast Fishery and the Inland Fishery. These three fisheries differ substantially in regards to their economic organization and extent of systematized labour relations. The Pacific Coast Fishery is the only one with significant union organization and therefore is the only area in which the operation of an existing labour relations system can be studied and observed. The Atlantic Coast Fishery and the Inland Fishery are almost entirely unorganized, especially at the level of actual fishing operations. Therefore the following study of the labour relations system in the fishing industry will of necessity be largely confined to an examination of the Pacific Coast Fishery.

The fishing industry differs markedly from other major industries in Canada. The conditions, skills required, institutions and economic environment in this industry have no direct counterpart in any other major industry.

Basically because of the special economic conditions found in the fishing industry, fishing and the allied types of employment associated with fishing are more than a means of earning a living; they are a way of life. This outlook is most obviously present on the side of labour, but is also recognized by management. These special conditions play an important and perhaps a prime role in conditioning the conduct of labour relations in the fishing industry. These factors are best thought of as being endogenous

to the industry in that they are inherent in the normal functioning of the harvesting and production processes. This study will attempt to explore the role that these factors play in the conduct of labour relations at some length.

In addition to these endogenous factors, there are certain outside or exogenous factors that have played a crucial role in the labour relations scene in the organized segments of this industry.¹ These exogenous factors will likely continue to be present in the foreseeable future. Specifically these factors involve the political ideology of the current hierarchy of the largest union of fishermen and allied workers. The political complexion of union leadership would be of only passing concern if at all in most industries. However, in the organized segments of the fishing industry, this influence is one that must be considered in some detail. Not only might an extreme political persuasion of the union leadership influence the aims and goals of the union, but also and perhaps most importantly, condition the attitudes of management in ways that are detrimental to the stability of the industrial relations system.

The output of the industrial relations system therefore is influenced by both the exogenous and endogenous factors mentioned above. This study will attempt to analyse the absolute and relative importance of these factors in order to better appreciate and understand the present day status and likely future status of industrial relations in the fishing industry.

Because of the limited amount of time to be devoted to this study and the broad terms of reference provided by the Task Force, the descriptive and institutional aspects of the fishing industry and the existing structure of the labour relations system in this industry are taken from

secondary sources. The primary secondary source used for this descriptive and institutional material was A Summary Review of Information to the Wage and Price Disputes in the British Columbia Fishing Industry, prepared by the Federal-Provincial Committee on Wage and Price Disputes in the British Columbia Fishing Industry, November 1964.²

The main contribution of the study, it is hoped, will be a consideration of how the existing structural and institutional framework of the labour relations system affects the conduct of these relations. A more comprehensive view would explore in detail the question of how the framework evolved and developed over time. This would, however, require in effect a complete history of the industry, which is beyond the immediate scope of the terms of reference set for this study as I interpret them. In addition, the constraint of time precludes such an historical treatment.

Many, if not most, of the crucial questions to be asked in order to examine the functioning of an existing labour relations system can not be answered by concentrating on historical development or by describing the institutional environment. Indeed, it is only by direct contact with the participating parties and knowledgeable non-participants that the requisite information can be obtained. Therefore much of the background material relating to how the existing system functions and what may be required to improve its functioning was obtained by personal and mail interviews. Because these interviews were usually informal and at times held in confidence the comments of specific individuals are not quoted in the text of the study. A list of principle parties contacted appears at the end of the study.

Footnotes

¹ The organized segments of the industry presently are mainly confined to British Columbia. However, as union organization spreads to the east coast fisheries, the same exogenous factors can be expected to operate.

² Hereafter to be referred to as the Summary Review.

SECTION 1

Structure of the West Coast Fishing Industry

The west coast fishery is characterised by a number of heterogeneous groups all of which play a significant role in the industry and therefore affect the output of the labour relations system. Primarily there are:

- (a) The owners and operators of the small fishing boats.¹
- (b) The owners of the larger fishing boats; employing more than two crew members.
- (c) Crew members on the larger boats.
- (d) Cannery and plant owners and operators.
- (e) Tendermen and shoreworkers.

These groups are sometimes combined:

- 1. Cannery and plant operators who own boats.
- 2. Boat owners who are also crew members.
- 3. Fishermen who belong to a co-operative organization.

The members of these groups may be combined into additional groupings such as cannery and plant operators who own boats, boat owners that are simultaneously crew members and fishermen, who by virtue of their memberships in co-operative organizations, become a part of the management decision making.

The organizations found in the industry may represent the interests of one or more of these groups. On occasion the interests of two or more groups represented by one organization may come into conflict which adds to the unique aspects of this industry.²

Organizations of Fishermen and Related Workers

There has always been a strong tendency for fishermen and allied workers to join into formal organizations to represent their interests. One need not look far to find the incentive for organization. The frequent physical isolation and the dangerous work activity added to the almost universal desire of labourers to join together to attain bargaining power have provided the requisite incentives.

A complete listing of organizations of fishermen and related workers on the west coast from 1893 to 1949 has been published in the Canadian Journal of Economics and Political Science.³ The historical development of these organizations serves to indicate the strength of the organizational incentive.

Until 1945 there were many different organizations that represented the interests of fishermen and related workers. Most of these groups were amalgamated and formed the United Fishermen and Allied Workers Union in that year. One group, the Native Brotherhood of British Columbia which represented and continues to represent the interests of native fishermen, did not join.

United Fishermen and Allied Workers Union

According to the constitution of the U.F.A.W.U. "the jurisdiction of this organization shall include all residents of Canada, working as fishermen with any type of gear, or as tendermen, or engaged in fish canneries, reduction plants, fish cold storages, net lofts, fish camps, fresh fish docks or in any other operations connected with the fishing industry ..."⁴

The constitution specifically excludes boat owners not actively engaged in fishing, packing or collecting fish, individuals employing more

than two men and boat owners that are members in a vessel owners association with which the U.F.A.W.U. negotiates.

Total membership in the U.F.A.W.U. has ranged between approximately 7000 and 10,000 in recent years. On the west coast, it and the Native Brotherhood represent nearly all the crew members on salmon seine, herring seine and halibut longline vessels, about three-fourths of the salmon gillnetters and a smaller minority of the salmon trollers. They also represent nearly all of the tendermen employed on larger fish packers and the majority of those employed on the small ones. Approximately 80% of the shoreworkers in land-based processing operations are organized.

A unique aspect of the U.F.A.W.U. is that it simultaneously represents the interests of workers who are self-employed, i.e. small vessel owners, workers who fish on shares,⁵ i.e. independent crew men, and those who work for wages, i.e. shoreworkers, tendermen and crewmen on company operated boats. Some of these individuals are included in the coverage of existing labour legislation (provincial); others are not covered by any labour legislation.

The U.F.A.W.U. negotiates wage agreements for shoreworkers and tendermen and minimum price agreements of fish for net fishermen and also administers welfare funds set up under various agreements. The union also has taken an active role in expressing views of members in the areas of government and social policy, e.g. labour and tax legislation and fishing regulations. The U.F.A.W.U. has been represented at national and international conferences and has presented briefs to Royal Commissions. It should be noted in passing that many of the representations made by the union have concerned topics and areas of controversy that go well beyond the scope of the fishing industry.

The union concludes agreements with the major companies through the Fisheries Association of British Columbia, which represents their interests, on price and wage matters. Companies not belonging to the above association sign separate agreements with the union. Minimum price agreements are normally signed each year for all net-caught salmon and for trawl and seine-caught herrring. Additional agreements cover minimum prices for other types of fish that are economically less important. The union and the Fisheries Association have also reached an agreement which places a limit on the maximum number of boats that can be active in the herring fishery.

The Native Brotherhood of British Columbia

The Native Brotherhood, formed in 1930 and incorporated in 1945, is open to all native Indians in British Columbia and those whom the Executive admit as associate members. The latter have no official voting power but in practice have a voice in proposals relating the content of agreements signed by the Brotherhood. Members of the Native Brotherhood can also belong to the U.F.A.W.U. although in recent years the dual membership has been subject to some controversy. There are approximately 2000 members in this organization, one third of whom are also members of the U.F.A.W.U. Of the total membership, approximately 1300 are fishermen, the remaining being related workers, e.g. shoreworkers and tendermen.

The Executive is granted the power to act as bargaining agent for the members, by the Constitution of the Brotherhood:

"45. Bargaining Agents: The Association, through its Executive, shall have the power to enter into contracts on behalf of its Branches and its members and associate members, or any of them, covering the terms and conditions of employment of the members and associate members of the

association and the remuneration to be paid thereof, and covering the terms and conditions of the sale or disposal by the members and associate members shall be bound by any such contracts so entered into by the association or the Executive or Association on their behalf, and agree with the association and the other members thereof that they will abide by such contracts and the terms, conditions, remuneration and price fixed thereby."6

The Executive is therefore granted the right to enter into contracts regarding prices, etc., without consulting the membership. However, in practice, price or wage agreements are concluded only after consultation with members.

Negotiations with companies and their representatives are normally conducted by the Native Brotherhood jointly with the U.F.A.W.U. on salmon and herring prices and on shoreworkers' and tendermen's agreements. The U.F.A.W.U. is clearly the dominant party in these negotiations however, with the Brotherhood playing a purely passive role. Therefore, the price and wage demands of both groups are always the same. The U.F.A.W.U. seems well aware that differences between its members and those of the Brotherhood could be a divisive factor in the ranks of labour in the industry. It has strenuously opposed the Native Brotherhood's accepting as associate members non-natives because of a fear that their influence may lead the Brotherhood to pursue an independent course of action in terms of demands, negotiations and settlements.

The Pacific Trollers Association

This group formed and incorporated in 1956 has a membership of approximately 900. All members are owners and/or operators of trolling vessels operating in the salmon fishery. Most are high-seas fishermen and apparently a majority do not hold other jobs in the off-season period.

This association includes some members of both the U.F.A.W.U. and the Prince Rupert Fishermen's Co-operative Association. The objective of the group is to improve conditions for the troll fishermen. It, like the U.F.A.W.U., has made statements to Government and other bodies when it has felt the interests of its members would be served.

Significantly, the Association has not sought to bargain on prices with fishing companies. Troll-caught salmon prices are therefore determined solely by market conditions. It would, however, be misleading to assume that the Association is content with competitively determined prices, as this area of the salmon fishery is characterised by ease of entry and therefore by many part-time participants. Without a substantial control over supply, it would therefore be surprising if the Association would attempt to negotiate minimum price agreements.

The Association and the U.F.A.W.U. have pursued conflicting policies at various times. For example, during the major fishing tie-up in 1963, the U.F.A.W.U. refused to allow this Association to return to fishing even though some other groups were permitted to do so. This resulted in the members arranging to pack and deliver its salmon directly to ports in the U.S. The heterogeneous nature of the groups in the industry therefore can and does produce a source of conflict at times.

Fishing Vessel Owners Association of British Columbia

The Association was formed in 1935 and incorporated in 1938. Its membership is approximately 165. The interests of the Association vary widely, covering most aspects of the fishing industry. The specific purposes stated in its Constitution are:

- "1. To work in conjunction with any similar organization on any constructive plan that concerns the interest of the organization.

2. To discuss any problems of the halibut fisheries that may arise from time to time, such as conservation, curtailment, prices and such other things concerning the industry.
3. To discuss the problems of salmon seining, such as prices, conservation, boundaries, settlement between crew and vessel, and any other matters pertaining thereto.
4. To discuss the problems of herring and pilchard fishing, such as prices, conservation, boundaries, settlement between crew and vessel and any other matters pertaining thereto.
5. To discuss the problems of all other methods of fishing, such as prices, conservation, boundaries, settlement between crews and vessels and other matters pertaining thereto.
6. To discuss charters and commissions on fish carried from place to place.
7. To do all in its power to further the interests of the fishermen in British Columbia." 7

Membership is open to owners and part-owners owning one-third or more of vessels requiring a crew of three or more in addition to the captain. This requirement automatically excludes owners of gillnet and troll boats, as they are characterized by one or two man operations. Most members are engaged in seining or longlining, however some operate trawl vessels. No owners with interests in canneries, cold storage and other fish plants are eligible for membership.

The organization has been active in seeking the removal of gear restrictions from existing fishing regulations and is not party to the limitation agreement between the fishing companies and the U.F.A.W.U. on the number of boats in the herring fishery and has sought the removal of the limitation. The composition of the Association is sufficient to explain the way it has sought these ends and tends to put this group in conflict with the U.F.A.W.U. at various times as their interests frequently differ. At one time the Association was a party to the negotiations on

fish prices. However, it no longer serves in this capacity. It does have a master agreement with the U.F.A.W.U. which provides rules for the division of the catch between owners and crew and sets out general working conditions.

The British Columbia Deep Sea Fishermen's Union

The Pacific Halibut Fishermen's Union which was organized in 1909 and affiliated with the International Seamen's Union, A.F. of L., became the Deep Sea Fishermen's Union in 1912. In 1932 its affiliation with the A.F. of L. was ended and it was chartered by the Trades and Labour Congress of Canada as the Deep Sea Fishermen's Union of British Columbia. It became the British Columbia Deep Sea Fishermen's Union when it affiliated with the Canadian Labour Congress in 1956. It has no relationship to unions of similar name in the United States.

Although the general tendency in the fishing industry has been to organize on an industrial basis, this Union has been maintained strictly as a craft union. Largely because of this, membership tended to fall over time and recently has numbered between 75 and 95. Members who fish for other than halibut come under the jurisdiction of the U.F.A.W.U.. Given the craft organization and declining membership this union has tended to play a smaller and smaller role in the industry.

The Deep Sea Fishermen's Union at present has a master agreement with the Prince Rupert Vessel Owners Association which sets out provisions for shares and covers working conditions. Recently the Union has organized some dissident shoreworkers in the Prince Rupert area.

Prince Rupert Vessel Owner's Association

This Association was formed in 1941 and until 1950 was known as the

Canadian Halibut Fishing Vessel Owners Association. It is the counterpart of the Fish Vessel Owners Association of British Columbia in the northern part of the west coast.

The membership consists of approximately 20 owners. Membership is open to owners and part-owners of a Canadian fishing boat.

The Association has a master agreement with the Deep Sea Fishermens Union and is a party to the Longline Agreement which has run from year to year without being renegotiated.

British Columbia Gillnetters Association

This Association was formed in 1952, with an initial membership of approximately 400, out of concern with a failure to attain a rapid settlement in a price dispute between the fish companies and the U.F.A.W.U. Significantly, one of the conditions of membership was that a member could not belong to any other organization of fishermen.

The Association negotiated with the Fisheries Association on minimum salmon prices independently from the U.F.A.W.U. in 1953 and 1954. Since that time it has not entered into any further negotiations nor is it party to any agreements.

The membership in the Association decreased over time to approximately 40 members. Needless to say, dwindling membership and activity have reduced the influence of this association.

Organization of Companies

Fisheries Association of British Columbia

Various organizations of canning and packing companies have been on the west coast since the turn of the century. Generally one organization has represented the major companies. The Fisheries Association of British

Columbia serves in this capacity at present. It was organized in 1939 under the name of the Salmon Cannery Operating Committee and took its present title in 1951. Membership is on a voluntary basis.

The objects of the Association as set out in its by-laws include:

- "1. To foster and promote the development, conservation and protection of the fishing industry and the fishery resources of British Columbia.
2. To engage in, encourage and assist, research biological and otherwise in any field of knowledge which does or may relate to such development, conservation and protection.
3. To provide and assist in providing for regulations of relations between employers and employees in said industry.
4. To prevent the regulation of prices of products and any practices which may limit production or to restrict free economic competition." 8

Member companies support the Association by annual contributions based on their volume of business. Any corporation, partnership or individual owner engaged in the marketing or processing of fish or fish products in British Columbia is eligible for membership. The following companies currently belong to the Association:

Anglo-British Columbia Packing Company Ltd.
British Columbia Packers Ltd.
Canadian Fishing Company Ltd.
Cassiar Packing Company
Francis Millerd and Company Ltd.
Nelson Brothers Fisheries Ltd.
J. H. Todd and Sons Ltd.

These companies account for approximately three-fourths of the total wholesale fish sales in British Columbia. This indicates the relative smallness of the other 31 companies on the west coast, both individually and as a group, and significantly produces a bilateral bargaining situation similar to that found in numerous other industries. It negotiates on behalf of its members with the U.F.A.W.U. and the Native Brotherhood of B.C. the

various agreements in the salmon and herring fisheries. The agreements cover prices, wages and working conditions. It also has negotiated with the U.F.A.W.U. on shares and working conditions in the longline fishery in the past. This agreement remains in effect even though it has not been signed in recent years. The Association did establish charges for rented boat and gear installations and also set uniform interest charges and procedures. This practice was discontinued in 1959.

The Fisheries Association is a member of the Fisheries Council of Canada and takes an active role in this organization. The Association is represented by the Fisheries Council in matters of national and international concern. On matters of local and provincial interest it makes direct contact with relevant governmental or regulatory body.

Other Company Organizations

The other industry associations include:⁹

1. Vancouver Fresh Fish Dealers Association
2. Prince Rupert Fresh Fish Dealers Association
3. Vancouver and Lower Mainland Halibut Exchange
4. Prince Rupert Halibut Auction

The first two associations have no price negotiations with fishermen. In the latter two organizations, prices are established by the auction system. The largest, the Vancouver Exchange has had to relax rules that have prohibited membership in the Exchange by companies by considering only wholesale fish dealers as eligible for membership in recent years. This has largely been due to the fact that more Canadian caught halibut have been brought to U.S. ports directly and the increased activities of co-operative organizations in this fishery.¹⁰

Organization of Fishing Co-operatives

At the beginning of World War II there were five independent producer and marketing co-operatives in the primary industry on the west coast.¹¹ These five amalgamated their selling operations in 1943 in order to compete on world markets, under the name of the Fishermen's Co-operative Federation.

The three southern co-operatives amalgamated in 1950 to form the Fishermen's Co-operative Association of Vancouver. However, it encountered serious financial difficulties and interest declined so that in 1956 its remaining assets were purchased by the Prince Rupert Fishermen's Co-operative Association, i.e. the P.R.F.C.A. In the same year the other remaining co-operative was liquidated. This left the P.R.F.C.A. as the sole surviving co-operative on the west coast. It has grown and is now active on the entire west coast. There are other co-operatives on the west coast but they have restricted themselves to acting as a selling agent for fishermen.

The P.R.F.C.A. was organized into its present form in 1939. It represented mainly troll fishermen in the salmon fishery initially. Since then it has expanded to include the longline halibut fishery, the trawl and seine herring fisheries as well as the seine and gillnet salmon fisheries. The relative value of its sales have shown a steady growth to the point that now the P.R.F.C.A. accounts for about 15% of the total value of fish production on the west coast.

To be a member, a fisherman must be financially independent or be able to obtain financing independently. He must be able to invest share capital in the co-operative. These requirements tend to restrict membership to the better fisherman who is in an independent financial position.

Members agree to deliver all of their fish to the co-operative. The organization, then, agrees to pay the members the gross proceeds of the sale of their fish less the associated operation costs. When a delivery is made to the co-operative the member is credited with about two-thirds of its estimated value. A second payment is made during the winter and a final payment is made after the closing of accounts at the end of the following year. Therefore a member might have to wait up to 18 months before final settlement of the year's accounts. Share capital is deducted to a \$3,000 maximum from this settlement.¹²

The existence of an economically viable co-operative has maintained a strong competitive factor in the market for both troll and net caught salmon, troll caught halibut and herring. As noted earlier, there are no minimum prices for troll-caught fish. Prices paid to co-operative members for net-caught salmon are usually higher than those outlined in minimum price agreements. However, the net prices received by fishermen selling to companies are also generally higher than the minimum price established by agreement due to the payment of bonuses. These bonuses are required to maintain lines of supply.

The Association employs tendermen and shoreworkers who come under wage contracts negotiated with the U.F.A.W.U. The co-operative plants were affected by the industry wide shut-downs in 1959 and 1963. This year the co-operative and the U.F.A.W.U. came into conflict when the union declared certain boats of the Prince Rupert Vessel Owner's Association "hot". The P.R.F.C.A., however, continued to handle fish from these boats and replaced a number of U.F.A.W.U. shoreworkers that refused to handle the "hot" fish.

Footnotes

- ¹ Generally one or two men operations
- ² As an example, disputes concerning share agreements dividing the net proceeds between boat owner, captain and crew.
- ³ See Jamieson S., and P. Gladstone, "Unionism in the Fishing Industry of British Columbia", Canadian Journal of Economics and Political Science, February, May 1950.
- ⁴ Section II - Article 1; Section III - Articles 4 and 5, quoted from the Summary Review, p. 78-79.
- ⁵ A share payment being a percentage of the net proceeds of the venture.
- ⁶ Article 45 of the Constitution and By-Laws, quoted from the Summary Review, p. 84.
- ⁷ op. cit., pp. 85-86.
- ⁸ op. cit., pp. 88-89.
- ⁹ op. cit., pp. 90-91.
- ¹⁰ op. cit., p. 91.
- ¹¹ The United Fishermen's Co-operative Association of Vancouver, the Kyuquot Trollers Co-operative Association, the Sointula Fishermen's Co-operative Association, the Prince Rupert Fishermen's Co-operative Association and the Masset Co-operative.
- ¹² op. cit., p. 92.

SECTION II

The Role of Government in the Fishing Industry

The institutional framework within which the production process is conducted in the fishing industry is much different than in other major industries. In most other industries the basic institutional framework is one where market forces are free to determine what to produce and to amass the necessary resources for production with a minimum of external regulation and control. Government, whether Federal, Provincial or Municipal, typically sets up and polices the basic "rules of the game". We rely on the profit maximizing activities of independent entrepreneurs to exploit our resources at an optimum rate that maximizes the general welfare of the individuals that comprise the economy. There are of course areas in which the market system breaks down and government action of a regulatory nature is required,¹ but these seldom require extensive regulation in most industries.

The commercial fishing industry has long been recognized as exploiting common property resource and as such is affected with the public interest requiring social regulation and control. If left exclusively to be exploited by private entrepreneurs the resource could be rapidly depleted to the detriment of fishermen, fishing and packing companies and labour. Thus private costs would substantially understate true social costs and as such would reduce welfare over time.² Competition among primary producers in the industry therefore has been sharply curbed in a number of respects. The fishing industry³ has for several decades been subjected to a greater degree of regulation than any other industry with the possible exception of certain public utilities. The Federal Government

is charged with maintaining the tidal fisheries while Provincial Governments are responsible for controlling and regulating the on shore procurement and processing of fish and fish products.

As an indication of the extent of fisheries regulation and administration, the major financial contributions made by Governments to maintain the commercial fisheries resource in the province of British Columbia is indicative. The expenses and revenues of the Department of Fisheries of Canada in the fields of management and research on the west coast were:⁴

| <u>Fiscal Year</u> | <u>Expenditure</u> | <u>Revenues</u> |
|--------------------|--------------------|-----------------|
| 1960/1961 | \$6,058,883 | \$69,818 |
| 1961/1962 | 8,165,702 | 88,438 |
| 1962/1963 | 8,639,184 | 100,114 |
| 1963/1964 | 7,634,567 | 76,282 |
| 1964/1965 | 7,817,793 | 74,047 |
| 1965/1966 | 10,346,129 | 185,070 |
| 1966/1967 | 12,922,819 | 251,077 |

The Department of Public Works also incurred substantial expenses in regards to activities in the fishing industry, however the precise amounts cannot be ascertained. These would include maintaining of facilities used by the Department of Fisheries and the costs associated with the construction and maintenance of facilities for the use of private fishermen. There are additional benefits accruing to the industry via subsidies for boat construction and assistance given to native fishermen through the auspices of the Department of Indian Affairs. The Federal Government also incurs additional costs from the installation, operation and maintenance of navigational control measures.

The regulations imposed by Government in the salmon fishery include the delineation of fishing areas, closure times and regulating fishing gear. A main objective is to provide for the escapement of the number of salmon which will maintain the populations at required levels. This means rather strict control over gear efficiency and effort in fishing.

In the herring fishery on the west coast, the coastal waters are divided into a number of herring fishing areas. A catch quota is then set for most of the areas but some remain closed to herring fishing. The basic intent of these regulations is to protect certain local stocks that are used extensively for food and bait purposes and to preserve local salmon fishing areas that might be inundated should local stocks of herring be substantially reduced. A closed season is also in effect to protect herring during spawning times. The quota system and closures have little effect in limiting the herring catch however, as the number of herring boats is limited by agreement between the union and buyers.⁵

Halibut fishing in the North Pacific is regulated by the International Pacific Halibut Commission which is provided for by a treaty between the United States and Canada. Each year the catch of halibut in designated areas is fixed by quota and opening dates are set out. Once the quota has been taken, the area is closed. The management intent of the regulations is to provide a maximum sustained yield of halibut.

The common property nature of the resource also has implications for the seriousness of industrial disputes occurring in the industry. A breakdown of the production process in most major industries places the direct economic hurt upon the participants, namely the owners of the land, labour and capital employed in the industry and on the supplying and purchasing industries.

There is additional economic hurt done to the general consuming public, however the production lost during a shut-down is usually recaptured soon after the break in the production process has ended. In many cases the shut-down is preceded by stockpiling activities which tend to maintain the flow of goods to the ultimate consumer.

The fishing industry is, however, much different in this regard. As a biological resource the proper management of the fishery requires a continuous production process. A disruption of fishing during a fish run means that the biological balance necessary for proper management can be severely disrupted for years, in addition to the loss of fish not harvested. The hurt resulting from a shut-down in the fishing industry therefore directly involves the general public as owners of the common property resource and places the fishing industry in a unique position. This aspect has been recognized by other inquiries into the conduct of labour relations in this industry. Most noteworthy is the findings of the Federal-Provincial Committee on Wage and Price Disputes in the British Columbia Fishing Industry.⁶ The Committee seemed guided almost exclusively by the common property nature of the resource that requires that the Government see that the fish are harvested. Its recommendations are confined basically to the direct action that the Government could take should the industry itself not agree voluntarily on prices and wages that will allow fishing to continue.

The numerous regulations imposed by the Department of Fisheries are not designed exclusively to prevent the depletion of the fish resources however. They are also implicitly designed to protect the livelihoods and employment of large groups of fishermen, particularly in gillnetting and trolling. No other intent would satisfactorily explain regulations that prohibit or restrict the use of the most efficient or economical

methods of fishing and protect the less efficient or uneconomical. Thus the use of fish traps are almost entirely banned in the salmon fishery in spite of the fact that it is generally acknowledged that by far the most efficient method for harvesting the fish would be traps at the mouths of the main rivers where salmon enter to spawn and to prohibit all salmon fishing by boat, net or line. By this means, the maximum salmon catch consistent with proper management of the fishery would be caught with only a small fraction of the labour and capital now employed. In addition to the banning of traps, special regulations are placed on certain types of fishing vessels. Without these regulations, it is likely that the larger and generally more efficient purse-seining vessels would largely displace gillnetters and trollers. Purse-seiners are limited to fishing during certain hours of the day and periods of the year and are prohibited from fishing in certain areas reserved exclusively for gillnetters. Further restrictions are placed on gillnetters. These regulate the colour of nets, their maximum length and depth and the minimum size of mesh. While these restrictions are also motivated in part by resource management considerations, the basic intent seems clearly to allow the largest possible number of operators to participate in catching the total maximum allowed for the season.

In general then, the institutional framework provided by Government within which labour relations operate in the fishing industry is characterized by a host of regulations and restrictions designed for the purpose of both resource management and maintaining relatively large numbers of fishermen. The latter consideration has substantial implications for the future output of the labour relations system in that any move to rationalize or make the

fishing industry more efficient will of necessity require changes in these regulations and in turn will tend to substantially reduce or limit the number of fishermen. The effect of fewer fishermen on labour relations will be considered later in this paper.

Any policies designed to actually reduce the number of active fishermen would undoubtedly meet with the disapproval of vested interests. Indeed, such proposals raise many interesting and complex social questions in regard to what the appropriate social policy ought to be when the maintenance of a "way of life" is an important aspect of the environment of the fishing industry. Unfortunately, these and related questions are beyond the scope of this investigation.

Footnotes

- ¹ Most often, but not exclusively, these are cases of correcting for external effects, i.e. a divergence between social and private costs, and in the case of natural monopoly.
- ² In this context social costs may exceed private costs because no charge is made for the use of the common property resource. Without this charge the costs incurred by individual producers are too low, in the sense that relevant costs are omitted, resulting in an exploitation rate that is too rapid.
- ³ This statement is generally true for all fishing but most appropriate to the west coast fishery as the extent of regulation on the east coast is substantially less due to concentration on different species that are less obviously supply constrained than salmon.
- ⁴ Department of Fisheries, Annual Reports.
- ⁵ The United Fishermen and Allied Workers Union and the Fisheries Association of British Columbia on the west coast.
- ⁶ A Summary Review of Information Related to the Problems of Wage and Price Disputes in the British Columbia Fishing Industry, prepared by the Federal-Provincial Committee on Wage and Price Disputes in the British Columbia Fishing Industry, November 1964.

SECTION III

Provincial and Federal Government Legislation

Affecting the Fishing Industry

Provincial Legislation

The west coast fishery falls under legislation of the Province of British Columbia. Generally for purposes of labour legislation, fishermen and companies do not have a recognized employee-employer relationship and therefore these groups remain outside existing provincial legislation.

In British Columbia the Male and Female Minimum Wage Acts do not specifically exclude fishing from coverage. However, the fishing industry is defined as follows:¹

"All operations in or incidental to the processing of or otherwise adapting for sale or use, or for shipment, any kind of fish or shell fish, including whales or any other form of marine life".

The specific exclusion of crew members on fishing boats which exists is also implied by the above quotation.

Only fish processing is included under the broad terms applicable to the manufacturing industry in the Hours of Work Act. However, there are exclusions relating to this industry.²

The Annual Holiday Act applies to the industry only when a "bona fide" employee-employer status is recognized. It therefore excludes fishermen themselves. The Payment of Wages Act which deals with the collection of wages likewise applies to the industry only where a "bona fide" employee-employer status is deemed to exist.

British Columbia Labour Relations Act

This act covers only allied workers in the fishing industry again

because of no recognized employer-employee relationship for fishermen. The United Fishermen and Allied Workers Union is certified as bargaining agent for shoreworkers, and employees of tenders and fish packers.

The Act is somewhat lengthy and all its provisions need not be listed here. There are two provisions that are particularly pertinent to the labour relations system in the fishing industry. The first provision provides for automatic conciliation procedures if either party to the bargaining sessions requests them. The second provision requires a supervised strike vote in the event that the conciliation procedures cannot reconcile the positions of the bargaining parties.

As noted above, the Act applies to only the allied workers in the industry and not to the primary fishermen themselves. The history of disputes and settlements in other than the primary segment of the industry, i.e. tendermen, fresh fish and cold storage workers, cannery and reduction plant workers, shows that while there were only a few years without a dispute, most of them were settled without a loss of production.

If the primary fishermen were held subject to this or similar legislation, it would serve to counter, it is argued, two serious faults in the existing labour relations system; (1) the lack of any form of automatic conciliation machinery to be used in disputes involving the primary fishermen and (2) the contention that strike votes among primary fishermen have not been democratically administered.

The British Columbia Fisheries Act

The only means by which the Government can enter a dispute concerning prices in the primary fishing segment of the industry is if there is a specific request for arbitration from either or both of the bargaining parties.

The Fisheries Act establishes that if there is failure to agree on the price of fish to be paid by the companies by the first of April in any year, the dispute may be referred to arbitration. When a request is made by one of the interested parties to the Lieutenant Governor in Council, he may appoint three arbitrators, one of whom may be nominated by the companies and one by the fishermen or their respective representatives. The Government could also appoint all three arbitrators. The award of such arbitration procedures would then fix the price of fish for that season.

Clearly the Act was designed to apply to the price of salmon, given the April deadline and the fact that at the time the Act was passed no other price agreements were in effect.³ These procedures have been invoked only once which was in 1938. The arbitration proceedings were prolonged and two members left the appointed board. As a result, the Commission of Fisheries held several meetings with the canners and fishermen and a settlement was reached without an arbitration award. The Provincial Department of Fisheries Annual Report of 1938 suggested that the failure of arbitration board to make an award was due to the lack of recognition on the part of the board members of the complex nature of the process by which the prices of fish are in fact determined.

The only other case of arbitration procedures being used was in 1952 following a six-week strike over the price of fall chum salmon. A single arbitrator was agreed upon but this action was not taken under the Fisheries Act as it was fourteen years earlier.

Federal Legislation

Federal legislation pertaining to the fishing industry is administered by both the Department of Fisheries and the Department of Justice.

Oddly enough it is the Combines Investigation Act administered by the latter that has raised important questions in this industry.

The tidal fisheries are under the jurisdiction of the Federal Government. The Department of Fisheries is therefore charged with the responsibility of exercising this jurisdiction. This Department, through the Minister, makes regulations pertaining to all aspects of fishing and management of the resource, issues leases and licences and sets licence fees except where fees are specified by law. The Minister can furthermore rescind licences that the Department issues if in his opinion the terms under which they were issued are or have been violated.

While the Fisheries Act and regulations are broad and give the Minister substantial authority over the conduct of fishing operations, they do not provide for any means by which he can enter into bargaining over the minimum prices for fish. Basically, the Act provides authority for the Minister to gather information in the conduct of fishing, e.g., number of fish caught or bought, the number of fishermen employed, their nationality, etc.,

The Combines Investigation Act is of particular importance to the conduct of labour relations in the fishing industry at the level of primary fishing. This is because fishermen would seem to contravene some of its provisions when negotiating minimum price agreements. According to Section 32;

- (1) Everyone who conspires, combines, agrees or arranges with another person
 - (a) to limit unduly the facilities for transporting, producing, manufacturing, supplying, storing or dealing in any article,
 - (b) to prevent, limit or lessen, unduly the manufacture or production of an article, or to enhance unreasonably the price thereof,

- (c) to prevent, or lessen unduly, competition in the production, manufacture, purchase, barter, sale, storage, rental, transportation or supply of an article, or in the price of insurance upon persons or property,
- (d) to restrain or injure trade or commerce in relation to any article,

is guilty of an indictable offence and is liable to imprisonment for two years".

Section 4 provides:

"Nothing in this Act shall be construed to apply to combinations of workmen or employees for their own reasonable protection as such workmen or employees".⁴

In 1956 an inquiry was instituted into the production, purchase and sale of raw fish on the west coast in the salmon, halibut, herring and trawl fisheries. The Director under the Combines Investigation Act in 1959 submitted to the Restrictive Trade Practices Commission, to some companies and to the officers of the United Fishermen and Allied Workers Union, charges that alleged combinations and conspiracies in restraint of trade in violation of the Act, in the market for raw fish on the west coast.

The U.F.A.W.U. is principal bargaining agent for fishermen in the salmon and herring fisheries. The principal bargaining agent for the companies is the Fisheries Association of British Columbia. The principle question revolved around whether or not an employee-employer relationship existed between the companies and fishermen and whether a collective agreement concerning prices between these groups violated the Act. A possible violation also existed as a result of the agreement which limited the number of boats in the herring fishery.

The question in the halibut fishery was whether or not a curtailment program which in part determines where various types of boats can sell their

fish, restricts fishing periods and provides for a lay-over by some boats after landing a catch violates the Act. The price of fish in the halibut fishery is not determined on a collective bargaining basis and therefore was not a subject of the inquiry.

The trawl fishery became a subject of inquiry even though at that time no agreements between fishermen and companies existed because of activities of the U.F.A.W.U. in attempting to secure agreements on minimum prices in this segment of primary fishing. On these occasions lengthy tie-ups in the industry resulted. Deliveries of fish to the companies were stopped and some non-union fishermen were prevented from conducting their fishing activity. The inquiry sought to determine whether these activities also violated the Act.

The results of the inquiry cast considerable doubt on whether arrangements and agreements between companies and fishermen were legal. Therefore, the companies declined to negotiate with the union in 1959. In order to prevent a large tie-up in the industry a moratorium provision was enacted which reads as follows:⁵

"1. Nothing in the Combines Investigation Act or in Section 411 of the Criminal Code shall be construed to apply to any contract, agreement, or arrangement between fishermen or associations of fishermen in British Columbia, and persons or associations of persons engaged in the buying or processing of fish in British Columbia, relating to prices, remuneration or other conditions under which fish will be caught and supplied to such persons by fishermen between the 1st day of January, 1959 and the 31st day of December, 1964".

Although it was initially designed to be effective only until December 31, 1964, it will apparently continue to run indefinitely. The inquiry itself was halted by injunctions issued to restrict the activities of the inquiry. The significance and ramifications that this moratorium has on the conduct of labour relations in this industry will be discussed

at some length in a later section. It should be noted, however, that the uncertainty attached to the legality of agreements between the representatives of the primary fishermen and representatives of the companies, in regards to minimum prices etc., undoubtedly has a substantial influence on the output of the labour relations system. It will be argued later that this effect is detrimental. It might also be noted in passing that if a "bona fide" employee-employer relationship were recognised the legality of such agreements would not be subject to doubt.

The Unemployment Insurance Act was widened to include primary fishermen in 1956. At that time it was recognized that this was a departure from the original intention of the Unemployment Insurance Fund. Of special interest to fishermen are the so-called "seasonal benefits" which run from December 1 to May 15. This is generally the period when fishing activity is reduced substantially and the market for other employment is slack. A fishermen must have made contributions in at least fifteen separate weeks since the previous March in order to qualify for these seasonal benefits. He is then entitled to five weeks benefits for each six weeks of contributions up to a maximum of 24 weeks.⁶

For purposes of the Unemployment Insurance Act as far as contributions are concerned, the fisherman is considered as an employee of the company to whom he sells and therefore the company must contribute the employers share to the fund. In order to claim benefits when unemployed, a fisherman need only have made the minimum number of contributions. The amount of his contribution is based on the value of his net sales of fish.

In order to qualify for "seasonal benefits" as a fisherman, a person must have five or more weeks contributions from fishing. The remainder

of the minimum fifteen weeks contributions may come from other insured employment. If he qualifies in respect to the above he is entitled to benefits regardless the amount of his yearly income.

It is reported that fishermen as a group have received benefits which substantially exceeded their own and their employers contributions.⁷ This provides a substantial transfer from other insured employees to fishermen as a group. This transfer, which certainly must have been anticipated at the time fishermen were included under the Unemployment Insurance Act, can only be interpreted as an implicit recognition of a social policy designed to maintain the number of fishermen or what is equivalent, to help preserve "a way of life". Such a social policy is of course based on ethical judgements which will not be argued here. However, it is interesting to note that such a policy may, in fact, most certainly does, run counter to suggested measures designed to "rationalize" the primary fishing industry which is ultimately designed to prevent the number of fishermen from increasing if not to actually reduce their numbers.

Another pertinent aspect of the application of this Act to primary fishermen is that while the House debates⁸ explicitly stated that there is no employee-employer relationship between fishermen and the companies in the conduct of the economic relations, for purposes of the Act such a relationship is implied, with the companies required to pay an "employers" share of the contribution to the fund.

It becomes apparent that because of the moratorium with respect combines violations, the existence of social policies seeming to run counter to one another, e.g. pursuing policies designed to maintain or increase the number of primary fishermen and at the same time seeking means to increase the viability of the primary segment of the industry and the acceptance of

employee-employer status for some purposes but not for others all contribute to a serious and unnecessary degree of uncertainty. This uncertainty, as noted earlier, must flavour the conduct of labour relations.

Footnotes

¹ Summary Review, p. 94.

² The eight and forty-four hour standard is not held to apply.

³ op. cit., p. 100.

⁴ op. cit., p. 104.

⁵ op. cit., p. 106.

⁶ op. cit., p. 107.

⁷ op. cit., pp. 4, 5.

⁸ When the amending legislation was introduced it read in part:

"That it is expedient to introduce a measure to amend the Unemployment Insurance Act to authorize the unemployment insurance commission with the approval of the governor general in council to make regulations providing for the extension of the Act to persons engaged in fishing notwithstanding that they are not employees of other persons and for including as an employer of a fisherman any person with whom the fisherman enters into contractual or other commercial relationship in respect of his occupation as fisherman ...".

taken from Debates, House of Commons, Session 1956, Vol. VII, p. 6843, as quoted in Summary Review, pp. 106-107.

SECTION IV

The Rationalization of the Fishing Industry

The conduct of labour relations in the fishing industry in general and in particular the primary fishing segment of the industry cannot be held as separate from the economic viability of the industry. While it is beyond the scope of this study to explore at length the economics of the fishing industry, the basic problem in the industry is one of too many fishermen and the existence of restrictions that perpetuate or even extend the use of non-economic techniques for taking fish. As noted earlier, there exists numerous and elaborate regulations governing such detailed matters as areas in which different types of fishing is permitted, the techniques and equipment that can be used, the length of fishing seasons, the hours, days and weeks and months of the year in which each type of fishing can be carried on, the maximum catches of fish allowed for the season, etc.. There are, however, no restrictions on the number of fishermen or fishing vessels that can operate within the framework of these regulations.¹ Within the boundaries and time limits imposed by resource management and other considerations, e.g. those designed to perpetuate certain types of fishing, there are no restrictions on the size of boats or the adoption of technological change.

The result has been excessive entry into the primary phase of the fishing industry as measured by excessive numbers of fishermen, fishing boats and amounts of capital invested in boats and gear, in relation to the potential output of fish. Table 1 shows the landed value of fish on the west coast for the years 1950-1966. Although the total actual value shows some

Table 1

Landed Value of Fish on the West Coast 1950-1966

(actual and constant dollars 1949=100)

| <u>Year</u> | <u>Landed</u> actual ^a \$000 | <u>Value</u> constant ^b \$000 |
|-------------|---|--|
| 1950 | 36345 | 35321 |
| 1951 | 40638 | 35741 |
| 1952 | 30158 | 25886 |
| 1953 | 31781 | 27516 |
| 1954 | 35044 | 30158 |
| 1955 | 28330 | 24338 |
| 1956 | 36597 | 30988 |
| 1957 | 30757 | 25231 |
| 1958 | 52053 | 41609 |
| 1959 | 35724 | 28240 |
| 1960 | 27962 | 21845 |
| 1961 | 38778 | 30014 |
| 1962 | 49006 | 35742 |
| 1963 | 40942 | 28703 |
| 1964 | 48436 | 31338 |
| 1965 | 47488 | 28968 |
| 1966 | 60963 | 34261 |

^a Fisheries Statistics of British Columbia and Yukon, Dominion Bureau of Statistics, 1966.

^b Adjusted by Dominion Bureau of Statistics consumer price index.

slight upward trend when these figures are converted to constant dollars, i.e. 1949=100, it is apparent that this slight upward trend was due to price increases because the constant dollar figures exhibit no trend whatever. That is, measured in constant dollars the landed value of fish does not appear to be increasing over time. Table 2 shows that the relative constancy of landings is common to the three major specie groups taken on the west coast. Salmon has accounted for approximately 65% of the total value of landings, herring approximately 14% and halibut about 13% in recent years.² Table 3 shows the number of licensed fishermen on the west coast for 1950-1965. The number of licensed fishermen has grown steadily although the growth has not been dramatic. The combination of relative constancy in the landed value of fish taken and the increase in the number of fishermen suggests that the average landed value of returns per fisherman has declined. Department of Fisheries data confirms this result. Table 4 shows what has happened to the average landed value of returns per licensed fisherman on the west coast. In effect, the west coast fishery has therefore more fishermen participating in approximately the same overall catch with the average return per fisherman showing no increasing trend.

Coincidental with the above trends pointed out has been the tendency for more capital to enter the industry. As an illustration, Table 5 shows that the ratio of capital investment to value of catch has fallen dramatically.

This evidence, all supporting the contention that the west coast fishery is characterised by over entry of both labour and capital, has led most of the major interest groups in the industry to recognize some form of gear and/or licence restriction is necessary to improve the economic viability of the primary level of the industry.

Table 2

Landings of Major Specie Groups on the West Coast

| <u>Year</u> | <u>Salmon</u> ^a (mill. pounds) | <u>Herring</u> ^b (thous. tons) | <u>Halibut</u> ^c (thous. pounds) |
|-------------|--|--|--|
| 1951 | 202 | 198160 | 20775 |
| 1952 | 151 | 11867 | 24618 |
| 1953 | 191 | 212096 | 25973 |
| 1954 | 182 | 170019 | 27473 |
| 1955 | 134 | 251857 | 21976 |
| 1956 | 117 | 178182 | 25994 |
| 1957 | 135 | 84612 | 25058 |
| 1958 | 185 | 231205 | 28852 |
| 1959 | 110 | 184806 | 30795 |
| 1960 | 78 | 171714 | 33868 |
| 1961 | 126 | 221721 | 29481 |
| 1962 | 168 | 264400 | 34575 |
| 1963 | 124 | 259510 | 37274 |
| 1964 | 124 | 252644 | 33292 |
| 1965 | 90 | 222031 | 32973 |
| 1966 | 163 | 153826 | 32000 |

^a British Columbia Catch Statistics, Department of Fisheries, Annual Reports and Fisheries Statistics, B. C. and Yukon, D.B.S., 1966.

^b Data is for the 12 month period April 1 - March 31. It should also be noted that except in the years 1951, 1953, 1954 and 1963 the west coast herring fishery was affected by tie-ups. Taken from Summary Review, p. 25. For years 1951-1963, other years taken from D.B.S. data, op. cit..

^c Data includes landings by Canadian fishermen at both Canadian and U.S. ports. Taken from, British Columbia Catch Statistics, Department of Fisheries of Canada Annual Reports.

Table 3

Number of Licensed Fishermen on the West Coast

(1950-1965)^a

| <u>Year</u> | <u>Total Licences</u> |
|-------------|-----------------------|
| 1950 | 12159 |
| 1951 | 13213 |
| 1952 | 13066 |
| 1953 | 12449 |
| 1954 | 13038 |
| 1955 | 12836 |
| 1956 | 11851 |
| 1957 | 12999 |
| 1958 | 15263 |
| 1959 | 15456 |
| 1960 | 15159 |
| 1961 | 16805 |
| 1962 | 16437 |
| 1963 | 16624 |
| 1964 | 13300 |
| 1965 | 13000 |

^a Department of Fisheries of Canada. Taken in part from Summary Review, p. 64 and from Department of Fisheries, Annual Reports.

Table 4

Average Value of Landed Fish Per Licensed

Fisherman on the West Coast

| <u>Year</u> | <u>Average Landed Value</u> (in constant dollars, 1949=100) |
|-------------|---|
| 1950 | 2905 |
| 1951 | 2705 |
| 1952 | 1981 |
| 1953 | 2210 |
| 1954 | 2313 |
| 1955 | 1896 |
| 1956 | 2615 |
| 1957 | 1941 |
| 1958 | 2726 |
| 1959 | 1827 |
| 1960 | 1441 |
| 1961 | 1786 |
| 1962 | 2174 |
| 1963 | 1727 |
| 1964 | 2356 |
| 1965 | 2228 |

Table 5

Capital in the Primary Segment of the West Coast Fishery^a

| <u>Years</u> | <u>Average Annual Capital Value</u> (thous. \$) | <u>Average Value of Catch</u> (thous. \$) | <u>Ratio-Capital Value to Value of Catch</u> |
|--------------|--|--|--|
| 1940-1949 | 18326 | 20112 | 1 - 1.10 |
| 1950-1959 | 48409 | 35743 | 1 - .74 |
| 1960-1963 | 67930 | 37993 | 1 - .56 |
| 1963 | 40068 | 40492 | 1 - .08 |
| 1964 | 40418 | 48436 | 1 - .19 |
| 1965 | 42775 | 47488 | 1 - .11 |

^a British Columbia Fisheries Statistics (1951-1963). Taken from Summary Review, p. 57 for years 1940-1963; single years 1963-1965 taken from Department of Fisheries, Annual Reports.

The U.F.A.W.U. has long pushed for licence limitation. In 1963 their proposal for implementation of a licensing scheme included the following points and proposals:³

- "1. A five year moratorium on issuing new licences and with renewals only to those who in either of the previous two years made at least 30% of their income from commercial fishing, this percentage to be increased annually for two years until it reaches 50% in the third year.
2. Licensed fishermen may accept other employment within the fishing industry without forfeiting the right to renew their licences.
3. No fishing licence shall be transferable or salable.
4. After the five year moratorium, new licences may be issued from a waiting list of applicants according to rules established during the moratorium.
5. To protect the interests of Native (Indian) fishermen, regulations shall be so administered as to maintain the present percentage of Native fishermen to licence holders.
6. The establishment of an impartial Board of Review which will consider and rule on problems arising out of licence limitation. This Board to be composed of elected representatives of fishermen's organizations and qualified government appointees.
7. We are of the opinion that to make licence limitation work effectively in the interests of working fishermen, the Government should act to eliminate private company financing, replacing it by Credit Union financing, with the Government providing whatever additional funds are needed.

Generally, the major spokesman for west coast companies, the Fisheries Association of British Columbia, supports the principle of licence limitation. However, it would not accept any proposal that would also limit private company financing of fishermen. The companies, which finance private fishermen who in turn agree to sell their entire catch to the financing company, feel

that this is an important way to ensure them an adequate supply of fish. Without some guarantee of access to the supply of fish they cannot efficiently plan their canning and processing runs and production processes.

The Federal Department of Fisheries also supports the general principle of licence limitation but is somewhat pessimistic about the likelihood of a satisfactory plan being instituted in the foreseeable future. This attitude is based largely on the recognition that the interests of various groups may conflict, e.g. the question of company financing, the transfer of licences etc..

The Native Brotherhood, which represents the interests of native fishermen, like other interested groups, supports licence limitation in principle but argues strongly that the number of licences issued to native fishermen should be sufficient to maintain the existing number of these fishermen. The U.F.A.W.U. proposal outlined above would only maintain the existing proportion of native fishermen and it therefore would likely be unacceptable to the Native Brotherhood.

Aside from conflicting interests of interested parties, there are some general problems encountered in a licence limitation scheme. These involve the question of whether licences should be issued to fishermen without regard to the type of gear they use, i.e. seiners, gillnetters, trollers, etc. There is considerable concern, among some segments of the industry, that if licences were granted without a given number going specifically to each type of gear that the less efficient methods that are presently perpetuated by existing Department of Fisheries regulations might disappear.

Clearly, if the industry is to be viable economically and a meaningful rationalization is to occur non-economic and inefficient methods should be displaced, at least after some transitional period. This fear is expressed

especially by gillnet and troll fishermen in the salmon fishery who presently benefit as a result of regulations reserving certain fishing areas and times for them. Department of Fisheries officials point out that although some of these fishermen would be displaced under a rationalization scheme such as a non-discriminatory licence limitation program combined with an abandonment of regulations designed to protect the livelihoods of specific groups of fishermen, the more efficient of these operators could compete quite favourably and even flourish. Certain fishing areas and types of species are best suited to being taken by these methods.

The implications of rationalization in the primary segment of the fishing industry for the labour relations system are not entirely clear. The increased economic well-being of fishermen resulting from more efficient and economic operations could in general be expected to be accompanied by greater participation in union affairs with the result that labour relations would be more stabilized.⁴ The union would enjoy greater bargaining strength with the elimination of small scale, part-time fishermen who now remain outside its organization. Depending upon how one views the long run prospects of the market for fish, and the amount of substitution of capital for labour possible, it is conceivable that a strong and viable union would pursue a conscious policy of securing increased returns for fishermen to the extent that the welfare of some fishermen improves at the expense of fewer fishermen being employed. These matters become speculative in nature, however, in that it is difficult to foresee the conduct of the union under the substantial changes that rationalization would bring.

One knowledgeable expert on the labour relations system in this industry, Dr. Stuart Jamieson of the University of British Columbia, is of the opinion that although the long run effects of rationalization on the conduct

of labour relations in the industry are difficult to forecast, the short run effects would be highly desirable. In his opinion, the existence of larger and larger numbers of fishermen taking approximately the same number of fish, in a market where prices have not increased sufficiently to prevent the average return to fishermen from falling, has led the union, specifically the U.F.A.W.U., to push for higher and higher minimum prices to attempt to maintain these average returns. The result is to produce relatively frequent strikes and shutdowns in primary fishing which are often to the detriment of the fishermen themselves, surely are damaging to the general public and conflict seriously with resource management activities. Without unlimited entry, this incentive for higher and higher minimum prices would presumably be reduced. There would of course remain an incentive to secure higher minimum prices in order to improve the welfare of fishermen even after rationalization had taken place. To the extent that this rationalization was accompanied by a substantial reduction of smaller scale fishermen, who at present remain outside the union, it would increase the economic strength of the union and may lead it to exercise that increased strength in its bargaining activities.

Footnotes

- ¹ In the herring fishery the number of boats and implicitly the number of men involved is limited by agreement between the companies and the U.F.A.W.U. on the west coast, but this is not imposed by governmental regulations.
- ² Based on Annual Reports of the Department of Fisheries of Canada.
- ³ Taken from a brief presented by the U.F.A.W.U. presented to the Federal-Provincial Conference in Ottawa in 1964.
- ⁴ This conclusion is, of course, in large part dependent on a satisfactory resolution of what the status of fishermen is under the law.

SECTION V

Collective Bargaining and Negotiation

The Structure of Bargaining

In the case of both fishermen and allied workers, i.e. shoreworkers and tendermen, the United Fishermen and Allied Workers Union is the bargaining agent. The U.F.A.W.U. is certified under provincial labour legislation to represent the allied workers. These workers are highly organized, with the latest estimates suggesting that 90% of these workers are union members and therefore work under union agreements. The extent of organization is somewhat remarkable in that a significant portion of this labour force is composed of housewives and students who enter the labour market on a periodic basis. The U.F.A.W.U. also is the major bargaining agent for the fishermen themselves, however, because of the unsettled status of fishermen, e.g. whether they should be considered "employees" or "partners in joint ventures", the union is not certified as the bargaining agent under any existing labour legislation. Approximately 35% of licensed fishermen are members of the union. The percentage of union members varies substantially however in different fisheries, i.e. among salmon purse seiners the percentage of fishermen belonging to the union would be much higher, while in the salmon trolling fishery, the percentage would be much smaller.

The interests of the fishing vessel owners are represented by the Fishing Vessel Owners Association, the Prince Rupert Vessel Owners Association and the Fisheries Association of British Columbia. Generally, the requirements for membership in the associations of vessel owners are such that the owners of small vessels, e.g. those used in gillnetting and trolling in the

salmon fishery, are prohibited for membership.

The major companies are represented by the Fisheries Association of British Columbia. All of the major companies are members of the Association. It should be noted that the major companies' interests include vessel ownership as well as buyers of fish.

Therefore the structure of bargaining is essentially characterized by one union confronting one company association in negotiations over working conditions, wages, in the case of allied workers, and minimum price agreements, in the case of fishermen. At one time the Fishing Vessel Owners Association also entered the negotiations over minimum prices for fish, but do not do so any longer.

The Master Agreement signed in the net-caught salmon fishery, which covers minimum prices for net-caught salmon is negotiated by the U.F.A.W.U. and the Fisheries Association. Similarly, separate agreements are also negotiated and signed with other smaller companies that are not members of the Association. Two Supplemental Agreements are also signed, one of which covers shares, but these are not regularly renegotiated each year. It should be recalled that there are no agreements covering either shares or minimum prices in the troll-caught salmon fishery.

There are two main agreements negotiated in the herring fishery; one covers minimum prices for trawl-caught herring and the other covers the return crew members on herring seiners. The Master Herring Agreement includes provisions to limit the number of boats operating in the seine-caught herring fishery.¹ In the trawl-caught herring fishery the U.F.A.W.U. negotiates a Herring Trawl Share Agreement with the Fishing Vessel Owners Association, which covers shares going to crew members. This agreement has run year to year without renegotiation since 1959.

The U.F.A.W.U. also negotiates an agreement with the Fisheries Association and Fishing Vessel Owners Association setting out shares working conditions in the longline fishery. It has run from year to year since signed in 1957.

The Native Brotherhood of British Columbia, in spite of a substantial membership, is not an independent force in the structure of bargaining in the industry. Most of the members of this group are also members of the U.F.A.W.U. The Brotherhood does sign most of the agreements negotiated by the U.F.A.W.U. but it plays no active role in the negotiation process.

As noted earlier, basic forces in the structure of bargaining in this industry are not atypical for many organized industries, i.e. one union facing one employer or company group. Aside from the whole question of the status of fishermen, there are certain aspects of this structure that are unique however. When bargaining over minimum prices in the salmon and herring fisheries, the interests of the union members and vessel owners, except in the case of company-owned vessels, coincide. They both have an obvious incentive for the union to demand higher minimum prices. In the share agreements or share provisions of master agreements, the interests of the vessel owners and companies coincide and are in opposition to the interests of the union members. This situation undoubtedly explains why vessel owners that are members of any vessel owners association or that employ more than two men are excluded from membership in the U.F.A.W.U. It could therefore be concluded that, although the basic structure of bargaining in the industry is not atypical, it does provide the possibility of conflicting and not clearly defined interests.

The Bargaining Process

The shoreworkers and tendermens' agreements are negotiated in the spring of each year unless they are allowed to run beyond the minimum one year time length of the agreements. Both the negotiating committees of the U.F.A.W.U. and the Fisheries Association enter the bargaining process armed with data relating to changes in costs of living, increases in productivity, wage trends in similar industries, etc.. The demands of the union are presented and the association counter-offers brought forth. Generally the resulting standard bargaining process continues until mutual agreement is attained and the contracts are signed and ratified. If the bargaining process reaches a stalemate, then the provisions of the British Columbia Labour Relations Act come into play automatically. Immediately conciliation procedures are established and after due time supervised secret balloting for acceptance or rejection of the conciliator's or conciliation boards' recommendations for settlement are conducted.

The bargaining process in the net-caught salmon fishery generally begins around the first of April, after the union and companies have gathered statistics on catch, pack and related matters. Special attention is given to price trends in the economy in general and in foods in particular. The union makes its demands known and the companies submit their offers. The basic issue is the minimum price for net-caught salmon as the "share provisions" of the agreements are only infrequently changed. Negotiations generally drag on until June or July, at which time the shoreworkers and tendermens' negotiations have reached a final stage. Neither the union or the companies have tended to enter really serious bargaining until this time because they prefer to wait until the fish begin running. If the run appears good, the union's position becomes stronger. A smaller run tends to strengthen

the position of the companies. This is an aspect of this fishery that is not found in the trawl or longline fisheries. The nature of this fishery automatically leads to a "crisis bargaining" situation which has serious implications for resource management as well as for labour relations. A shut-down of fishing seriously hampers the efforts of the Fisheries Department to properly manage the biological aspects of the resource and in addition harms the general public via the more obvious channels of lost production, employment, etc.. Unlike the bargaining over contracts for shoreworkers and tendermen, there are neither any automatic or satisfactory processes that come into effect in the event of a bargaining stalemate. This is because the ambiguous status of fishermen does not allow them employee status and so therefore bargaining that involves fishermen does not come under either Provincial or Federal labour legislation. Given the inherent tendency for "crisis bargaining", the lack of automatic conciliation machinery is particularly serious. The general opinion of those knowledgeable in the industry is that this is a crucial contributory factor to the number of strikes and shut-downs in this fishery.

One of the major stumbling blocks to bargaining in this fishery from the union's viewpoint, is that the companies frequently, in fact generally, cite poor sales and profit positions as a reply to the demands for higher minimum prices, but are unwilling to provide data to support their contentions. From the companies viewpoint, a major bargaining problem cited, is the leadership of the union uses their position to seek ends not normally sought through trade union channels, at least in North America. A consideration of this point is reserved for a later section of this study. It is also felt, by the Fisheries Association especially, that union strike votes are

not properly administered and that in general strike decisions frequently do not have the general support of the membership.

In the herring fishery, the negotiations for minimum prices begin in the spring with the union making its price demands and the companies replying. Negotiations drag on usually until mid-summer. Again, as in the case of the minimum price for net-caught salmon, "crisis bargaining" tends to result. The union tends to delay hard bargaining until the fall, especially the late fall. Since almost all herring taken on the west coast are used by reduction plants for meal and oil, the oil content of the herring is of crucial interest to the buyers. The oil content of herring declines sharply as they approach maturity, reaching a maximum oil content in the months of November and December. As in the case of fishermen in the salmon fishery, fishermen in the herring fishery have an ambiguous status. Therefore, when bargaining reaches a stalemate, no conciliation machinery comes into play. As a result, tie-ups have been an almost annual occurrence in recent years. There are no serious implications for resource management as there is in the salmon fishery, and because of the agreed to "quota arrangement" between the U.F.A.W.U. and the Fisheries Association, the maximum catch is usually taken whether there is a tie-up or not, the 1952-53 season being an exception. Because of the nature of the herring fishery by which the companies bear the vast majority of the cost of a tie-up via a reduced oil content of the fish, there is less pressure for the union to settle than in the salmon fishery where a delay during a run will reduce the total catch substantially.

The Breakdown of Bargaining

There is a widespread opinion that the west coast fishing is frequently characterized by the breakdown of bargaining and resultant strikes

and stoppage of production. The frequency with which a bargaining stalemate leads to strikes varies markedly from one organized segment of the industry to another.

Shoreworkers' and tendermens' contracts have generally been negotiated without the loss of production due to strikes. Liberal use has been made of the conciliation procedures outlined in the Provincial labour legislation covering shoreworkers and tendermen. A review of the disputes and settlements in the eleven year period covering 1952-1962, involving the allied workers in the west coast fishing industry, given in Table 1, for purposes of illustration, shows that while there were only three years in which no disputes were referred to conciliation, in most years settlements were made without any loss of production due to strikes or lockouts. In three years there were no disputes. Agreements were signed after direct negotiation or the year was the second of a two-year agreement. In eight years, conciliation boards were convened and they dealt with nineteen disputes. In five disputes (three years) the Board's reports were unanimous and agreements were signed without stoppages. In eight disputes (three years) the Board's reports were dissented from by the employees' nominee but with further negotiation agreements were reached without stoppage. In three disputes (two years) the Board's report was dissented from by employees' nominee and a strike or sympathy strikes resulted. In only one year, i.e. 1954, was the work stoppage on the part of allied workers attributable directly to a failure to reach agreements for shoreworkers and tendermen. Agreements for allied workers were tied in with the price demands for salmon fishermen in 1959 and a failure to reach a minimum price agreement tied up the whole industry.

Table 1

Disputes Referred to Conciliation Under the
British Columbia Labour Relations Act

(1952 - 1962)^a

| <u>Year</u> | <u>Classification</u> | <u>Procedure Followed</u> | <u>Method of Settlement</u> |
|-------------|---|---|--|
| 1952 | (1) Tendermen | In both cases conciliation board reported with Union nominee dissenting. In case of tendermen, strike vote was asked. | Agreements signed without work stoppage. |
| 1953 | Tendermen | Conciliation Board unanimous on formula for new agreement | Agreement signed without time loss. |
| 1954 | (1) Cannery and Reduction Plant Workers. | Conciliation Board report with employees' nominee dissenting. Strike vote requested, postponed and withdrawn. | Agreement signed without apparent time loss but tendermen on strike so whole industry closed down. |
| | (2) Tendermen | Conciliation Board report with employees' nominee dissenting. Strike vote conducted and workers voted in favour of strike action. Strike last Aug. 7-15. Negotiations resulted in compromise. | 638 men directly affected. Time loss of 3,828 days but fishermen conducted sympathy strike and shoreworkers did not work during this period. |
| | (3) Fresh Fish and Cold Storage Workers | Conciliation Board report with employers' nominee dissenting. Negotiation. | Three employers signed agreement. |
| | (4) Shoreworkers - Sooke Traps | Referred to Conciliation Board - unanimous recommendation. | Parties accepted report of Board. No work stoppage. |
| 1955 | NO DISPUTES | | |
| 1956 | (1) Cannery Workers and Reduction and Liver Plant, etc. | Referred to Conciliation Board with employees' nominee dissenting. | Following submission the parties succeeded in reaching an agreement. No work stoppage. |

cont/d.....

Table 1 (cont'd)

| <u>Year</u> | <u>Classification</u> | <u>Procedure Followed</u> | <u>Method of Settlement</u> |
|-------------|---|---|---|
| 1956 | (2) Fresh Fish and Cold Storage Workers | Referred to Conciliation Board with employees' nominee dissenting. Employees rejected report. Strike vote conducted. Negotiations continued. | Agreement signed. No work stoppage. |
| | (3) Tendermen | Referred to Conciliation Board with employees' nominee dissenting. Strike vote conducted. Negotiation continued. | Agreement signed. No work stoppage. |
| 1956 | NO DISPUTES | | |
| 1958 | (1) Cannery Workers) (2) Fresh Fish and Cold Storage Workers) (3) Tendermen) | Referred to Conciliation Board. Report unanimous. | Agreement signed. No work stoppage. |
| 1959 | (1) Cannery Workers (2) Fresh Fish and Cold Storage Workers (3) Tendermen | Referred to Conciliation Board. Majority report with employees' nominee dissenting. Strike vote conducted. Strike ensued between July 29 and Aug. 10. Negotiations continued. Dispute settled. | Two year agreement signed but a total of 3,095 employees lost 24,760 days work in addition to entire primary fishing industry closed down for duration. |
| 1960 | NO DISPUTES | | |
| 1961 | (1) Cannery Workers (2) Fresh Fish and Cold Storage Workers (3) Tendermen | Conciliation officer and parties agreed that no board be appointed. Negotiations proceeded with assistance of Departmental mediator. Agreements signed on basis of written proposal from employers' representative. | No time lost. |

cont/d.....

Table 1 (cont'd)

| <u>Year</u> | <u>Classification</u> | <u>Procedure Followed</u> | <u>Method of Settlement</u> |
|-------------|--|---|--|
| 1962 | (1) Cannery Workers | Referred to Conciliation of- ficer and Board, majority report submitted with employees' nom- inee dissenting. Board report rejected by Union. Government supervised strike vote conducted. | Settled by direct negotiation and agree- ment signed without work stoppage. |
| | (2) Fresh Fish and Cold Storage Workers | | |
| | (3) Tendermen | In many operations, employees voted against strike. | |

^a British Columbia Department of Labour data, taken from Summary Review, pp. 95-97.

Clearly the role of conciliation procedures has been an important factor in reaching agreements between the allied workers and employers in the industry. This evidence would seem to lend support to the contention that the lack of automatic conciliation procedures in disputes arising between fishermen and the companies has led to work stoppages that could have been prevented. Fishermen, because of their ambiguous status, as has been pointed out earlier, do not come under the Provincial labour legislation that has established the conciliation procedures that allied workers enjoy.

The number of breakdowns in the bargaining process between fishermen and the companies is very large. As an illustration, Table 2 shows the list of disruptions in the west coast fishing industry from 1950 to 1966 which includes disputes involving the fishermen themselves and allied workers. It should be recalled that there are no price or share agreements for troll-caught salmon, and only share agreements in the longline fishery. In the sixteen years shown, there have been seven disruptions in the net caught salmon fishery and thirteen disruptions among herring seiners. In the case of the latter, eleven of the thirteen disruptions involved a majority of the seasons, and shut-downs have been a yearly occurrence in recent years. It is almost impossible to ascertain the total loss that has resulted from these disruptions although the Fisheries Association of British Columbia has estimated that the 1952-53 tie-up in the herring fishery resulted in a loss of over \$8 million.

The high incidence of disruptions in the herring fishery relative to the net-caught salmon fishery is likely explained by the fact that a delay in fishing imposes the heaviest cost on the companies because of a reduced oil yield as the herring mature. The total year round catch remains relatively stable but if the herring are taken late, the oil yield and thus the return to the companies, falls substantially. In the net-caught salmon fishery,

Table 2

List of Disruptions in the Fishing Industry in British Columbia

| YEAR | LOCATION | ORGANIZATIONS INVOLVED | DATE | TYPE OF FISHING | PARTICULARS |
|-------|------------|--|----------------------|---------------------|---|
| 1950 | -- | No disputes | -- | -- | -- |
| 1951 | -- | No disputes | -- | -- | -- |
| 1952 | B.C. Coast | United Fishermen and Allied Workers' Union | July 20-July 24 | Salmon Net | Pink Salmon Prices Specifically |
| | B.C. Coast | " | Sept. 6-Oct. 20 | Salmon Net | Chum Salmon Prices Specifically |
| 1952 | Vancouver | " | Apr. 29-June 23 | Trawlers | Union Jurisdictional Dispute |
| 1952- | B.C. Coast | " | Oct. 1-Dec. 31/51 | Herring Seiners | Price and shares dispute |
| 1953 | B.C. Coast | " | Jan. 1-Mar. 1952 | | |
| 1953 | B.C. Coast | " | June 15-June 24 | Salmon Net | Net prices generally |
| 1954 | B.C. Coast | " | Aug. 7-Aug. 14 | Entire Industry | Strike of Tendermen, wages and conditions |
| 1954 | B.C. Coast | " | June 20-June 27 | Salmon Net | Net prices generally |
| 1955 | B.C. Coast | " | July 1-Nov. 18 | Herring Seiners | Price and shares dispute |
| 1956 | B.C. Coast | " | Oct. 15-Dec. 2 | Herring Seiners | Price and shares dispute |
| 1957 | B.C. Coast | " | June 22-July 13 | Salmon Net | Net prices |
| 1957 | B.C. Coast | " | Oct. 6 -Oct. 14 | Salmon Net | Chum prices |
| 1957 | West Coast | " | | Halibut Long-liners | Season opened on May 12th but fishermen through their union delayed until May 20 to give time to work out plan which provided lay-over between trip |
| 1957 | B.C. Coast | " | Oct. - Dec. | Herring Seiners | Price and shares dispute |
| 1958 | B.C. Coast | " | Jan. - June 16 | Herring Seiners | Price and shares dispute |
| 1958 | B.C. Coast | " | Oct. 7-end of season | Salmon Net | Price dispute on Fraser R. sockeye |
| 1958 | | | | Halibut Long-liners | Large halibut boat strike bound pending contract negotiation showing the cost of echo sounders and payment for time spent rigging prior to season opening. Fleet sailed noon May 3rd and season had opened May 1st. |
| 1959 | B.C. Coast | " | July 25-Aug. 9 | Entire Industry | Strike of shoreworkers, tendermen and net fishermen - salmon prices |

cont/d.....

Table 2 (cont'd)

| YEAR | LOCATION | ORGANIZATIONS INVOLVED | | | DATE | TYPE OF FISHING | -- | PARTICULARS |
|------|------------|--|---|---|------------------------|-----------------|----|--|
| 1959 | B.C. Coast | United Fishermen and Allied Workers' Union | " | " | June 1-Oct. 7 | Herring Seiners | | Price and shares dispute |
| 1960 | B.C. Coast | " | " | " | Early February-Nov. 20 | Herring Seiners | | Price and shares dispute |
| 1961 | B.C. Coast | " | " | " | Oct. 1-Nov. 20 | Herring Seiners | | Price dispute |
| 1962 | B.C. Coast | " | " | " | Oct. 1-Dec. 1 | Herring Seiners | | Price and shares dispute |
| 1963 | B.C. Coast | " | " | " | July 13-Aug. 3 | Entire Industry | | 1962-63 season, price and shares dispute |
| 1964 | B.C. Coast | " | " | " | Oct. 24-Nov. 21 | Herring Seiners | | Strike of Shoreworkers, Tender men and net fishermen, wages and minimum prices |
| 1965 | B.C. Coast | " | " | " | Nov. 1-Nov. 29 | Herring Seiners | | Price and share dispute |
| 1966 | B.C. Coast | " | " | " | Nov. 5-Dec. 6 | Herring Seiners | | Price and share dispute |

^a Department of Fisheries, taken in part from Summary Review, pp. 125-126.

a shut-down imposes heavy costs on the fishermen as well. Once the salmon have run, the loss cannot be recouped by additional effort after a tie-up has ended.

The high incidence of disruptions in the organized segment of primary fishing in general, e.g. herring seining and net-caught salmon fisheries, is difficult to fully explain. The existence of a militant union, the inherent tendency for "crisis bargaining" and the ambiguous status of fishermen that hold them outside existing labour legislation, are all important contributory factors undoubtedly. The lack of conciliation procedures which would come into play automatically seems to be a major factor in that conciliation has played a very substantial role in the settlement of disputes without stoppages involving allied workers. There is no obvious reason why conciliation procedures would be any less successful in disputes involving primary fishermen. The implication is of course that the whole question of the status of fishermen should be resolved with haste in order to bring them under existing labour legislation. It will be argued elsewhere in this study that there is merit in the inclusion of primary fishermen under existing Provincial legislation on the west coast. If, because of the jurisdictional question involved, they are brought under federal legislation, it would be highly desirable to amend this legislation to include the provisions for conciliation in the existing Labour Relations Act of British Columbia.

Footnote

- 1 The provisions of the agreement specify that if more than a given number of herring seiners operate, the union can reopen price negotiations and that it can cause fishing to be stopped until the number of boats is reduced to the given number, or until a new price is agreed to. Included also is a provision whereby if non-signatory companies increase the number of boats, the signatories may also increase their boats in operation.

SECTION VI

Existing Regulations and Agreements in the West Coast Fishing Industry

There is a large number of existing agreements in the west coast fishery. These cover basic working conditions, minimum prices, share agreements, wages, union security and working conditions in general.

Generally these agreements include provisions that allow them to remain in effect unless either one of the parties gives notice to renegotiate before a certain stipulated time. As noted earlier, the process of renegotiating wage and price agreements is more or less routine, however share agreements are usually renewed from year to year. The majority of the agreements are between the Fisheries Association of British Columbia, representing the major companies and the United Fishermen and Allied Workers Union, and/or the Native Brotherhood of B. C., representing the fishermen, shore workers and tendermen. The U.F.A.W.U. also signs agreements with the Fishing Vessel Owners Association, groups of companies, individual companies and the Prince Rupert Fishermen's Co-operative Association. Vessel owners who enter into charter agreements in the salmon and herring fisheries sign individual contracts with the companies concerned. The Deep Sea Fishermen's Union signs agreements with the Prince Rupert Vessel Owners Association only.

The agreements generally fall into the class of a "master agreement" or a "supplemental agreement". The former are designed to be all inclusive whereas the latter refer to specific groups of workers, detailing their responsibilities, wages and working conditions etc.

Shoreworker's Agreements

The U.F.A.W.U., as certified under Provincial legislation, bargains and signs agreements on behalf of its members with the Fisheries Association and other companies. These agreements cover general working conditions and wages.

The Shoreworkers Master Agreement covers the areas of:

- (a) Cannery, Male Supplement
- (b) Cannery, Female Supplement
- (c) Reduction Plant Supplement
- (d) Net Loft Supplement
- (e) Saltery Supplement
- (f) Watchmen Supplement

This agreement is accompanied by supplemental agreements signed by all members of the Association. Special supplemental agreements are signed by the Association members to cover certain specialized types of employees. All these supplemental agreements are designed to provide greater detail and to cover specific points related to specific workers, tasks and classifications.

The Native Brotherhood, representing the interests of native fishermen, signs the Master and supplemental agreements also, but as noted earlier, the role of this group is largely passive in that they follow the lead of the U.F.A.W.U.

The U.F.A.W.U. and Native Brotherhood also sign the Fresh Fish and Cold Storage Master Agreement with the Fisheries Association and other companies. There are supplemental agreements to the document to cover specific groups of employers as well. All of the above agreements are formalized under the procedures set out in the Provincial Labour Relations Act of B. C.

These Master Agreements establish preferential hiring rules favouring union members and require union members to maintain membership in good standing

and accept the check-off payment of union dues. Also covered are seniority rights, wages, working conditions, medical payments, grievance procedures etc..

These Master Agreements are generally renegotiated each year although they can run from year to year unless renegotiation is requested by one of the parties. The basis for renegotiation has been to secure higher wages and extended fringe benefits. The recent history of renegotiation has been intended to increase overtime rates, the number of paid holidays, welfare plan payments, to extend medical insurance coverage and to reduce the work week. Generally these ends have been attained.

The changes in wage rates for selected categories in the west coast fishery are shown in Table 1 for the years 1945-1968. It shows that between 1945 and what will prevail by 1968, hourly wages have more than tripled and monthly wages have almost tripled, in all categories, while the work week fell from 44 to 40 hours.

There is a wide range of hourly and monthly wage rates in the fishing industry because of the many job classifications which makes it difficult to draw comparisons with other industries. However, when selected hourly wage rates in the fishing industry or the west coast are compared with those in manufacturing in Vancouver and the average wages in the Food and Beverage Industry in Canada, the wages in the west coast fishery generally have increased at approximately the same rate. Table 2 shows these comparisons.

The Tendermen's Agreements

The U.F.A.W.U. and the Fisheries Association sign a Tendermen's Agreement, the purpose of which is to set out wages and working conditions of the workers on company owned fish packers and cannery tenders. Additional similar agreements are signed by the union with companies which are not members

Table 1

WAGE RATES FOR SELECTED CATEGORIES OF SHOREWORKERS IN

THE WEST COAST FISHING INDUSTRY^a

(Wage rates vary in different locations and categories but rates shown here are comparative)

| Year | Can. Washer(f) | | Can. Lbr(f) | | Cannery | | Lineman | | Filletter (f) | | Qual. FF Wrapper | | Qualified Netman | | Reduction Mealman | |
|------|----------------|-----------|-------------|-----------|------------|-----------|-----------|-----------|---------------|-----------|------------------|------------|------------------|-----------|-------------------|-----------|
| | Hourly \$ | Hourly \$ | Hourly \$ | Hourly \$ | Monthly \$ | Hourly \$ | Hourly \$ | Hourly \$ | Hourly \$ | Hourly \$ | Monthly \$ | Hourly \$ | Monthly \$ | Hourly \$ | Monthly \$ | Hourly \$ |
| 1945 | .52 | NA | NA | 1.11 | 214.00 | | 1.11 | .67-.82 | .57-.62 | | 165-179 (1944) | 86-93¢ | 144.00 (1944) | | | .75¢ |
| 1946 | .57 | .67 | .67 | 1.11 | 214.00 | | 1.11 | .77-.87 | .67 | | 180-195 | 94¢-\$1.01 | 150.00 | | | .78 |
| 1947 | .65 | .75 | .75 | 1.17 | 225.00 | | 1.17 | .87 | .72 | | 205.00 | 1.07 | 160.00 | | | .83 |
| 1948 | .75 | .88 | .88 | 1.28 | 245.00 | | 1.28 | .97 | .82 | | 225.00 | 1.17 | 180.00 | | | .93 |
| 1949 | .80 | .95 | .95 | 1.33 | 255.00 | | 1.33 | 1.03 | .88 | | 235.00 | 1.22 | 190.00 | | | .99 |
| 1950 | .80 | 1.00 | 1.00 | 1.33 | 255.00 | | 1.33 | 1.05 | .90 | | 242.50 | 1.26 | 200.00 | | | \$1.04 |
| 1951 | .98 | 1.20 | 1.20 | 1.59 | 305.00 | | 1.59 | 1.26 | 1.10 | | 287.50 | 1.50 | 235.00 | | | 1.22 |
| 1952 | .98 | 1.20 | 1.20 | 1.64 | 315.00 | | 1.64 | 1.26 | 1.10 | | 287.50 | 1.50 | 235.00 | | | 1.22 |
| 1953 | .98 | 1.20 | 1.20 | 1.72 | 330.00 | | 1.72 | 1.26 | 1.10 | | 302.50 | 1.58 | 235.00 | | | 1.22 |
| 1954 | 1.08 | 1.30 | 1.30 | 1.82 | 350.00 | | 1.82 | 1.36 | 1.20 | | 322.50 | 1.68 | 255.00 | | | 1.33 |
| 1955 | 1.10 | 1.32 | 1.32 | 1.90 | 330.00 | | 1.90 | 1.38½ | 1.22 | | 302.50 | 1.74 | 235.00 | | | 1.35 |
| 1956 | 1.26 | 1.49 | 1.49 | 2.08 | 361.50 | | 2.08 | 1.54½ | 1.38 | | 334.50 | 1.92 | 264.50 | | | 1.52 |
| 1957 | 1.30 | 1.52 | 1.52 | 2.10 | 365.00 | | 2.10 | 1.58½ | 1.42 | | 337.50 | 1.94 | 270.00 | | | 1.55 |
| 1958 | 1.37 | 1.60 | 1.60 | 2.21 | 385.00 | | 2.21 | 1.67 | 1.50 | | 356.00 | 2.05 | 284.80 | | | 1.64 |
| 1959 | 1.47 | 1.72 | 1.72 | 2.33 | 405.00 | | 2.33 | 1.77 | 1.60 | | 376.00 | 2.16 | 304.80 | | | 1.75 |
| 1960 | 1.52 | 1.77 | 1.77 | 2.39 | 415.00 | | 2.39 | 1.82 | 1.65 | | 386.00 | 2.22 | 314.80 | | | 1.81 |
| 1961 | 1.54 | 1.79 | 1.79 | 2.41 | 418.50 | | 2.41 | 1.84 | 1.67 | | 389.50 | 2.24 | 318.30 | | | 1.83 |
| 1962 | 1.61 | 1.87 | 1.87 | 2.51 | 437.30 | | 2.51 | 1.92 | 1.75 | | 407.50 | 2.34 | 332.60 | | | 1.91 |
| 1963 | 1.67 | 1.92 | 1.92 | 2.61 | 454.80 | | 2.61 | 2.00 | 1.82 | | 423.30 | 2.43 | 345.90 | | | 1.99 |
| 1964 | 1.77 | | | 2.72 | 473.00 | | 2.72 | 2.08 | 1.89 | | 440.20 | 2.53 | 365.90 | | | 2.13 |
| 1965 | 1.85 | 2.04 | 2.04 | 2.88 | 500.50 | | 2.88 | N.A. | N.A. | | 459.70 | 2.63 | 389.20 | | | 2.28 |
| 1966 | 1.93 | 2.13 | 2.13 | 3.03 | 528.00 | | 3.03 | N.A. | N.A. | | 475.20 | 2.72 | 404.70 | | | 2.37 |
| 1967 | 2.01 | 2.30 | 2.30 | 3.24 | 563.00 | | 3.24 | 2.26 | 2.07 | | 503.00 | 2.83 | 420.40 | | | 2.46 |
| 1968 | 2.09 | 2.39 | 2.39 | 3.44 | 598.00 | | 3.44 | 2.34 | 2.15 | | 530.80 | 2.94 | 436.14 | | | 2.55 |

44 hour week

40 hour week

^a Data taken from annual agreements between U.F.A.W.U. and Fisheries Association for 1965-1968, previous years taken from Summary Review, p. 112.

Table 2

HOURLY WAGES AND INDEXES FOR SPECIFIED CATEGORIES IN THE FISHING INDUSTRY OF
THE WEST COAST COMPARED WITH THE MANUFACTURING INDUSTRY IN VANCOUVER
AND FOOD AND BEVERAGE INDUSTRY IN CANADA^a

| HOURLY WAGE RATES | | | | 1948-1966 | | | | INDEXES - 1949 = 100 | | | |
|-------------------|---------------------------------|------------------------------|---|----------------------------|-----------------|---------------------------------|------------------------------|---|----------------------------|-----------------|--|
| Year | Vancouver Manufact- uring | Canada Food & Beverage | Qual. Fresh Filleter Female-Vanc. | Canner Washer Female | Qual. Netman | Vancouver Manufact- uring | Canada Food & Beverage | Qual. Fresh Filleter Female-Vanc. | Canner Washer Female | Qual. Netman | |
| | \$ | \$ | \$ | \$ | \$ | | | | | | |
| 1948 | 1.08 | .80 | .97 | .75 | 1.17 | 92.3 | 93.0 | 94.2 | 93.8 | 95.9 | |
| 1949 | 1.17 | .86 | 1.03 | .80 | 1.22 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | |
| 1950 | 1.23 | .90 | 1.05 | .80 | 1.26 | 105.1 | 104.6 | 101.9 | 100.0 | 103.3 | |
| 1951 | 1.40 | .99 | 1.26 | .98 | 1.50 | 119.7 | 115.1 | 122.3 | 122.5 | 123.0 | |
| 1952 | 1.56 | 1.10 | 1.26 | .98 | 1.50 | 133.3 | 127.9 | 122.3 | 122.5 | 123.0 | |
| 1953 | 1.62 | 1.16 | 1.26 | .98 | 1.58 | 138.4 | 134.9 | 122.3 | 122.5 | 129.5 | |
| 1954 | 1.67 | 1.21 | 1.36 | 1.08 | 1.68 | 142.7 | 140.7 | 132.0 | 135.0 | 137.7 | |
| 1955 | 1.70 | 1.25 | 1.38½ | 1.10 | 1.74 | 145.3 | 145.4 | 134.5 | 137.5 | 142.6 | |
| 1956 | 1.77 | 1.31 | 1.54½ | 1.26 | 1.92 | 151.3 | 152.4 | 150.0 | 157.5 | 157.3 | |
| 1957 | 1.88 | 1.39 | 1.58½ | 1.30 | 1.94 | 160.7 | 161.7 | 153.9 | 162.5 | 159.0 | |
| 1958 | 1.97 | 1.45 | 1.67 | 1.37 | 2.05 | 168.4 | 168.6 | 162.1 | 171.2 | 168.0 | |
| 1959 | 2.04 | 1.53 | 1.77 | 1.47 | 2.16 | 174.4 | 177.9 | 171.8 | 183.7 | 177.0 | |
| 1960 | 2.12 | 1.57 | 1.82 | 1.52 | 2.22 | 181.2 | 182.6 | 176.7 | 190.0 | 182.0 | |
| 1961 | 2.17 | 1.61 | 1.84 | 1.54 | 2.24 | 185.5 | 187.2 | 178.6 | 192.5 | 183.6 | |
| 1962 | 2.23 | 1.64 | 1.92 | 1.61 | 2.34 | 190.6 | 190.7 | 186.4 | 201.2 | 191.8 | |
| 1963 | 2.31 | 1.69 | 2.00 | 1.67 | 2.43 | 197.4 | 196.5 | 194.2 | 208.8 | 199.2 | |
| 1964 | 2.40 | 1.75 | 2.08 | 1.77 | 2.53 | 203.4 | 207.0 | 201.9 | 221.3 | 207.4 | |
| 1965 | 2.55 | 1.85 | N.A. | 1.85 | 2.63 | 217.9 | 215.1 | N.A. | 231.3 | 215.6 | |
| 1966 | 2.70 | 1.94 | N.A. | 1.93 | 2.72 | 230.8 | 225.6 | N.A. | 241.3 | 223.0 | |

a Dominion Bureau of Statistics Data. Taken from Summary Review, p. 113 for years 1948-1964.

of the Association. The Native Brotherhood also signs these two sets of agreements, but again does not actively participate in their negotiation.

The companies recognise the U.F.A.W.U. and Native Brotherhood as bargaining agents for workers in the collecting, packing and transportation fields. The provisions of the agreements cover and specify working conditions, crew complements, methods of hiring, wages, duties, hours of work, vacations, welfare coverage, grievance procedures etc.. These agreements, like the Shoreworkers Agreements remain in effect unless one party gives notification of a desire to renegotiate at least two months prior to the termination date.

The tendermen and shoreworkers as well are unambiguously employees so that a bona fide employee-employer relationship exists under law and therefore they come under existing provincial labour legislation. There are therefore no particularly unique aspects of these agreements.

The Fishermen's Agreements

The ambiguous status of fishermen as employees means that the U.F.A.W.U., the Native Brotherhood and the Deep Sea Fishermen's Union are not certified as the bargaining agents for fishermen under any statute. Nevertheless, share agreements and other practices are negotiated by these groups with companies and/or their representatives.

Net Caught Salmon

A Master Agreement is signed by the U.F.A.W.U. and the Native Brotherhood, representing the fishermen, and the Fisheries Association, representing the major companies. This agreement is designed primarily to establish a minimum price for net caught salmon but also covers various aspects of fishing operation and fishermen's benefits. Companies that are not members of the Association sign separate agreements with the U.F.A.W.U. and Native Brotherhood.

Two Supplemental Agreements are also signed. One deals with the share arrangements and working conditions on seiners and the other provides for the collection of dues and vouchers. The seine agreements provide that after the costs of fuel and lubricating oil are deducted from the gross value of the catch, the balance is divided into eleven equal shares. Four of the remaining shares are assigned to the boat and net and seven are given to the crew. The cost of all provisions, other than the fuel and oil deducted previously, are deducted from the seven crew shares and the balance is divided equally among all crew members. This agreement also specifies the conditions of the boat, establishes the responsibility of the union representative on the boat, establishes grievance procedures and deals with other related matters.

Although the operators agree to allow the captain to hire and fire crew members without any requirement that crewmen be union members, the union in effect has a "closed shop" arrangement whereby only boats with union crew members are allowed to fish. The U.F.A.W.U. uses what are termed "boat clearances" by which the union posts the names of boats that have clearances, the clearance being granted only if the vessel is manned by union crewmen. The fish from seiners using non-union crews will be declared "hot" and not handled by union shoreworkers and tendermen.

There are no agreements covering the minimum price of troll-caught salmon or for the division of catch. As noted earlier, troll-caught salmon are sold at competitive market prices, in the sense that no minimum price agreements are in force. However, the companies may have marked monopsony power in the purchase of fish for the fresh market.¹ Share arrangements are left to individual bargaining.

The Herring Fishery

Two main agreements are negotiated by the U.F.A.W.U. and the Fisheries Association. The first covers the price to be paid crew members per ton of seine-caught herring. This agreement is signed by the Native Brotherhood as well. The second, or the Master Agreement, provides for a minimum landed price for trawl-caught herring. Individual herring seine vessel owners also sign Charter Agreements with individual companies for herring on a delivered tonnage basis. In the case of trawl-caught herring, the union signs a separate agreement with the Fishing Vessel Owners Association which provides for share arrangements.² The Master Herring Agreement covers working conditions as well as the minimum price provisions and also provides for a four week lay over at Christmas.

The Master Agreement also includes the provision that limits the herring fleet. The presumed intent of this provision is to provide a more stable income for the affected fishermen. The incentive for companies to limit the number of boats in the herring fishery is not obvious. Since all herring seiners are either owned or chartered by the companies, it is possible the intent is to prevent a proliferation of herring seiners which would be to the detriment of all companies in that more boats would be taking approximately the same tonnage of fish. Another explanation might be the recognition that a more prosperous herring fishery would lead to a more stable labour relations in this fishery. For reasons specific to the herring fishery it tends to be strike prone, regardless of its viability. Some of the possible reasons for this situation have already been noted in the previous section of this study. This provision of the agreement has been effective in stopping the entry of new boats into the herring fishery with the exception of some

entering one co-operative venture, the Prince Rupert Fishermen's Co-operative Association. The Fishing Vessel Owners Association has fought against this limitation provision preferring unlimited entry on the part of its members. This is but one example of the conflicting interests that frequently characterize the primary segment of this industry.

The Herring Trawl Share Agreement signed by the U.F.A.W.U. and the Fishing Vessel Owners Association runs from year to year although it can be renegotiated upon request. According to the agreement, all crewmen are to be members of the union in good standing and that vessel owners engaged in the fishery must be members in good standing of the Fishing Vessel Owners Association. The provision governing the division of proceeds provides that the cost of various operating expenses are deducted from gross revenues. The balance is divided by 40% going to the boat (owner) and 60% going to the crew. When more than three crewmen are employed, the crew's percentage is increased by a stipulated amount. Other provisions of this agreement are similar to the Master Herring Agreement signed by the union and the Fisheries Association.

The Longline Fishery

The Longline Agreement is between the U.F.A.W.U., the Fisheries Association, and the Fishing Vessel Owners Association. A similar agreement was signed by the Deep Sea Fishermen's Union and the Prince Rupert Vessel Owner's Association. These agreements deal with share arrangements and working conditions in this fishery.³ The agreement specifies that the captain and crew have the sole right at which port to land their catches and can sell to the highest bidder. They also may withhold their fish until they can sell at a price they deem suitable.

The agreement also provides, after deducting certain expenses from

gross proceeds, the remainder is divided by 20% going to the vessel and 80% going to the crew. Food costs and costs of lost or damaged gear are then taken from the crew's share and the remainder divided equally among the members, except in the case of a new man fishing for the first time whose share is determined by the captain and crew. Another provision provides that inexperienced men must obtain permits from the union. The permits are to be issued only when the inexperienced man is an addition to the regular crew or if experienced union men are not available.

The U.F.A.W.U. has been unable to secure a minimum price agreement in the longline fishery but has in conjunction with longline fishermen in Alaska and Washington been able to establish a "Lay-Over Programme" to extend the fishery over a longer period of the year.

The Trawl Fishery⁴

A Trawl Share Agreement has been a subject of lengthy and sometimes bitter controversy on the west coast. The U.F.A.W.U. has repeatedly tried to obtain this agreement, however none has been signed. As recently as the summer of 1967 the U.F.A.W.U. was engaged in a strike against the Prince Rupert Vessel Owners Association. Since then the union has retreated and the strike ended. Although no written agreement existed, there had been a general understanding pertaining to charges against gross proceeds and the division of the remainder. When several vessel owners altered their behaviour in these regards, the union pushed for a formal written agreement similar in content to the share agreements in other fisheries. When the vessel owners refused to sign, the boats of the Prince Rupert Vessel Owners Association were declared "hot", as were the fish they were landing. The vessels were able to land their fish even though many shoreworkers who belong to the U.F.A.W.U. refused to handle the fish. The ultimate outcome has been left largely

unresolved and most of the union shoreworkers were reinstated in the jobs they left while refusing to handle the "hot" fish. However, approximately 150 shoreworkers employed by the Prince Rupert Fishermen's Co-operative Association broke relations with the U.F.A.W.U. and are now represented by the Deep Sea Fishermens Union. The conflict was a bitter one and resulted in the conviction of three union (U.F.A.W.U.) officials on contempt charges. The resulting sentences have since been served by the convicted parties.

Footnotes

- ¹ Troll-caught salmon are sold almost exclusively for the fresh market and the boats are generally small with usually only one or two crew members.
- ² The Herring Trawl Share Agreement.
- ³ The Longline Fishery refers to bottom fish, mostly halibut taken by the process of longlining.
- ⁴ The trawl fishery includes bottom fish taken by the trawl method.

SECTION VII

The Status of Fishermen¹

The question of the status of fishermen has been touched upon earlier in conjunction with the section relating to legislation that affects the fishing industry. This question is of considerable importance and requires a more detailed investigation because it bears heavily on the relation between fishermen and the companies in the industry.

It should be pointed out at the onset that the shoreworkers and tendermen are clearly hired employees of the companies concerned. Their legal status as employees and the employee-employer relationship necessary for inclusion under existing labour legislation is recognized by both the union, i.e. the U.F.A.W.U., and by the companies and their representatives, i.e. the Fisheries Association of British Columbia. Therefore, this question of legal status is pertinent only to the fishermen themselves and their relationship to the companies that they sell to.

The importance of this question cannot be overstated. Without exception, the parties contacted in conjunction with this study, whether directly involved as in the case with labour and the companies, or neutral as in the case with the Fisheries Department, all suggested that the status of the primary fishermen is crucial to the future of labour relations in this industry. The history of tie-ups in this industry clearly shows that the breakdown in production occurs almost exclusively at the primary fishing level. The number of exclusive shoreworker and other allied workers disputes that have caused a loss in output and production have been minimal. In fact, the record compares very favourably to other industries, both extractive

and manufacturing. Knowledgeable persons connected with the industry recognize that the primary fishermen generally control the policies of the major union, i.e. the U.F.A.W.U. Therefore, any unnecessary conflict which arises with regard to the legal status of fishermen has substantial implications for the output of the labour relations system in the whole fishing industry and not just the primary fishing segment.

The industry position is perhaps best indicated by a brief presented by the Fisheries Association of British Columbia in 1962 to the Royal Commission on the Workmen's Compensation Act. This brief in part states:²

"The part played by the Union (the U.F.A.W.U.) in representing the fishermen is highly relevant to consideration of the question whether independent fishermen should be treated as 'workmen' under the Act.

Fishermen are not, in fact or in law, employees or workers. Fishermen are independent entrepreneurs who harvest the resources of the seas and sell their catch to the buyers. The fact that the United Fishermen and Allied Workers' Union, on behalf of some fishermen, negotiates minimum fish prices with buyers does not make it a collective bargaining agent".

This position is vehemently defended by representatives of the interested companies. They recognize no employee-employer relationship between fishermen and the buyers or fish companies, and consider that the fisherman, whether acting as an independent owner-fisherman, whether chartered or financed by the buyer or a crew member, as a "partner in a joint venture". These representatives refuse to consider their relations with the union with regard to primary fishermen as collective bargaining or even as labour relations. The only legitimate labour relations they recognize are with shoreworkers and tendermen whose employee status is well defined in law and in fact.

This position is generally, but significantly not entirely, accepted

by existing legislation, both provincial and federal. Provincial labour legislation in British Columbia either specifically or implicitly excludes primary fishermen and in some cases specifically excludes allied workers.³ Federal legislation is even more inconsistent in regards to the status of fishermen. This status is uncertain under the Combines Investigation Act and Section 411 of the Criminal Code because of the moratorium provision that continues to run. There is considerable doubt that the inquiry into whether or not agreements between the representatives of the fishermen and the companies contravene this legislation will ever be successfully concluded. With regards to the Unemployment Insurance Act primary fishermen have the status of employee and the companies that of employer. For purposes of the Workmen's Compensation Act, the recognized status of the fishermen depends upon the fishery in which he operates. In the herring fishery, the companies contribute to the fund for the fishermen affected, but in the other fisheries, the fisherman bears the full amount of his contribution.

The position of the U.F.A.W.U. with reference to the status of primary fishermen is indicated by the following excerpts from its submission to the Federal-Provincial Conference on Fisheries Development in 1964:⁴

"Fishermen, with the exception of the larger vessel owners, are basically workmen. Their livelihood is earned by hard manual labour, long hours and the use of skill and judgement in contending with the elements and handling of boats, gear and equipment

Alone and unorganized, the fisherman cannot be on equal terms with the fish buyers. The unorganized fishermen are just as readily exploited by the wholesale fish dealers and fish processing companies, as are unorganized workers on shore. In fact, the perishability of the product of his labour, may place him in an even worse position than his fellow workers in the plants

Many finely drawn legalistic phrases have been used to create the impression that fishermen are 'sharemen', 'entrepreneurs', or 'small businessmen' and not true 'workmen'

The rate paid per pound of fish caught and delivered, minus expenses, constitutes the piece-work wages of the vast majority of Canada's fishermen

Legislation across Canada should protect the basic human rights of all fishermen and allied workers to organize, to bargain and to withhold their labour collectively."

Obviously, the union views the economic status of fishermen as being workers and appeals to their right to organize like any other group of workers. In the view of the union, its agreements with the companies are the results of collective bargaining and their activity plays a crucial role in a meaningful labour relations system.

To the impartial observer, the fisherman is easily differentiated from most other workers by the joint venture nature of their economic activity. The method of pay, the share or lay system, is the means by which the uncertainty of the fishing venture is borne by all participants. The fisherman is clearly not an employee in the literal sense that a clerk in a department store is an employee. Here the joint venture element is entirely lacking as the uncertainty of the venture is borne directly by the owners of capital and the entrepreneurs in the venture. The store clerk does of course bear some of this uncertainty indirectly via the possibility of unemployment if the venture is unsuccessful but the fisherman bears the uncertainty directly through variations in his income as a result of variations in his catch and the price at which he can sell it.

Therefore in a strictly legal sense most fishermen indeed have the status of "independent proprietors" or "partners in joint ventures" however the relevant question would appear to be to consider the economic or functional setting of the fisherman.

The clauses in the Combines Act and the Criminal Code exempting trade unions from prosecution are based on the assumption that certain types of sellers of goods and services, notably workers and employees and small-scale producers of perishable products, are in a disadvantageous bargaining position and vulnerable to exploitation unless allowed to organize and bargain or sell collectively. Indeed labour legislation explicitly recognizes the need to provide equal bargaining power to labour as a social policy. It is not at all clear that fishermen do not fit into this general category even though the collective bargaining organizations of fishermen, including the unions and vessel owners associations, because of a combination of circumstances peculiar to the fishing industry, do not fit exactly into the definitions of "trade unions" as laid down by these statutes. To hold the bargaining organizations of fishermen and boat owners to be subject to the provisions of the Combines Act and Criminal Code would put these acts in obvious opposition and at cross purposes with most other statutes and the activities of other departments of government that are concerned with the fishing industry. The latter seems to be based in large part on the premise that fishermen are basically an occupational group that is subject to special risks and insecurities. That is, they are placed at a substantial bargaining disadvantage when confronted by buyers of their produce or labour services. Also in recent years, protective labour legislation such as Unemployment Insurance and Workmen's Compensation has been extended to fishermen of various categories. Thus the realization that the fishermen's economic position is similar to other "bona fide" employees.

The crucial question to be answered is whether or not the economic or functional role of the fisherman places him in a position such that without collective representation through a union or association, he is vulnerable to the very hardships that "bona fide" employees which remain unorganized are subject to.

The latter groups right to organize to bargain collectively is clearly protected in law and is deemed to serve not only their particular welfare, but the general welfare as well.

The fishing industry is characterized by a large number of fishermen selling to a highly concentrated number of buyers. This concentration is, significantly, high enough to insure them considerable monopsony power over the market for fish. There is thus a presumption that the unequal bargaining power of the two groups constitutes an area of social concern.

Even in the absence of marked unequal bargaining strength, the competitive ideal of large numbers of independent buyers and sellers would not fulfill the requirements of "pure competition". As pointed out earlier, no other major industry has its operations regulated to the extent that they are regulated in the fishing industry. These regulations so condition the environment within which primary fishing is conducted that the "pure competition" as defined by economists could not exist. The requirements of fisheries management whereby supplies of fish are limited either by the imposition of fixed quotas or by imposing time limits on fishing operations alone violate the conditions necessary for this market structure to prevail. Additional regulations, which in effect, ensure that less than the most efficient techniques are used and perpetuated, further remove the primary fishing industry from the realm of the competitive model. Most of these regulations, e.g. regulations restraining the larger and more efficient purse seiners from competing openly with the trollers and gillnetters in the salmon fishery, clearly restrict competition. Therefore it would seem that the organization of fishermen into collective bargaining organizations should have the general support of the public in that there is clearly a vast difference in the bargaining power of unorganized fishermen and the buyers of fish, and no possibility of "pure

competition" in the industry given the extent of the restrictions and regulations by government present in the industry.

It is difficult to see the justification for defining boat crewmen on larger boats, as "partners in a joint venture" and difficult to understand why they have in effect had this status in the eyes of the law for so many years. This notion of their status may have its roots in the circumstances attendant to the operations of the salmon fishing industry in its early history. The capital necessary to finance ventures was often the result of many fishermen pooling their resources. The proceeds of the catch were distributed in shares according to the capital and labour contributed to the venture. This situation is of little relevance to the present day situation of crewmen on seine, trawl and halibut boats.

The status of partnership implies that each partner owns a share of the total capital tied up in the venture, has some share in the management function and has his return determined by some previously agreed to share of the net proceeds of the venture, if any. The only one of the three that is relevant to crewmen today is that they are paid an agreed upon share of the net proceeds of the catch rather than a wage or salary. With few exceptions the crewmen on large vessels have no capital invested in the enterprise in which they are employed and have no decision making authority.

According to existing union agreements the seine boat captains can hire and fire crew members at will, subject to the restrictions placed on them in the agreements. The crew members of seiners, trawlers and halibut boats are as dependent on the owners of capital and as subject to the authority of plant managers, i.e. boat captains in this context, as are workers in other industries.

In reality, the only meaningful difference between these crewmen and most industrial workers is the manner in which they are paid, i.e. a share of the proceeds of the catch after deducting expenses, rather than in hourly, or daily wages. The crewman's position is analogous to workers in industries paid on a piece-rate basis. Many workers in logging and mining are paid "wages" in the form of so much per thousand board feet of timber cut and loaded or so much per ton of ore mined.⁵ From their earnings, employers deduct charges for board and other supplies purchased and rentals for the use of company housing and/or equipment. Crew members on large boats cannot be paid on the basis of individual piece-rates, i.e. so much per fish or per pound, because this type of fishing involves joint efforts in which it is impossible to identify and measure the output of each individual. Payment on a share basis is in effect a "group piecework" system in which each crew member is assumed to have contributed equally and is therefore entitled to an equal share of the proceeds.

It appears that hired crew members as well as fishing vessel owners and the canning and packing companies could comply with the Combines Act and Criminal Code and clearly establish the employee status of crewmen if a system of hourly or daily wage-rates or individual piece rates were adopted in place of the present system of shares. If this were done, then presumably agreements between the union and vessel owners associations and between these two groups and the canning and packing companies would be clearly within the law. It would also presumably mark as legal, strikes, picketing and various other activities as they are for other unions. Such a change would undoubtedly create inefficiencies and conflict in industry, however. The "share" system has been found to be the most appropriate and efficient system of remuneration

in this segment of an industry where the output of an individual is largely unpredictable and unmeasurable and in which special incentives may be necessary to provide the requisite time, effort and risk-taking on the part of crew members. If this were not so the share system would presumably have been replaced long ago.

The argument above was directed specifically to the crewmen on large seiners, trawlers and in the halibut boats, but the same principle applies in the case of gillnetters. Even though virtually all gillnet vessels are owned individually by the fishermen themselves, the functional status of these fishermen appears to be closer to that of "worker" than "independent producer". The Federal and Provincial Governments have recognized this in part by granting gillnet fishermen coverage under the Unemployment Insurance and Workmen's Compensation Acts. Unlike other "independent" producers, these fishermen do not have access to the open market in the sale of their fish. The species of salmon taken by this type of fishing, i.e. sockeye, pink and dog salmon, cannot be exported fresh to the U. S.. For several decades the Federal Department of Fisheries has banned these exports presumably to encourage and protect the canning and processing industry on the west coast. The fishermen are therefore required to sell to only west coast companies, who by the structure of the industry have significant monopsony power in buying fish. Also the fishermen depend upon the companies for credit to help purchase their boats and equipment, and they also depend on the companies for facilities to collect, refrigerate and transport the fish from the fishing grounds to the canning and processing plants and also for the facilities for canning and processing, storing, labelling, advertising and selling the finished product in the final markets. Gillnet fishermen are therefore as dependent upon the canning and processing companies as they would be as direct employees.

All of this comment is not designed to portray fishermen as a direct counterpart of industrial workers, but instead to show that their functional or economic status is basically one of employee. The unsettled legal status of fishermen keeps them in a juridical "no man's land" as far as industrial relations are concerned. Although agreements continue to be signed and observed under the existing moratorium, the unsettled status of fishermen has undoubtedly contributed to the strained relationships and costly disputes that have occurred in this industry. Because of the inherent nature of the relationships between buyers and sellers, crew members and boat owners in gillnet, purse-seine and halibut boat fishing have for decades organized into unions, have engaged in collective bargaining with vessel owners associations and companies, have engaged in strikes and generally acted like workers in the labour movement. However, unlike other workers they have not been under the jurisdiction of federal or provincial industrial relations legislation and the collective bargaining procedures that these require. Clearly, if fishermen want to organize into unions, conduct collective bargaining with the buyers of their products and also enjoy the privileges of protective legislation such as Unemployment Insurance and Workmen's Compensation, then they must expect to assume the responsibilities and accept the restrictions that other unionized workers do. In fact, given the common property nature of the resource involved which affects the whole industry with the public interest more than most other industries, it can be argued they may have to accept more regulations and restrictions.

One cannot help but be impressed by the extent to which the whole question of the uncertain legal status of fishermen affects the thinking of persons involved in the operations of this industry. There is no question that the existing moratorium against prosecuting those involved in agreements

in the fishing industry is undesirable to both the fishermen and canning and processing companies. Of course the companies would prefer that the position of fishermen be declared to be "partners in joint ventures" as it would effectively prevent collective action by fishermen. The union, with the interests of the fishermen in mind feels the appropriate status is one of "employee". The public interest would best be served by accepting the view of the union in this matter in the opinion of this investigator. The functional or economic status of crewmen on larger boats and the fishermen-owners of gillnet boats is clearly closer to that of "employee" than that of "partner in a joint venture".

There does remain the consideration of which labour statutes organized fishermen should be held subject to, i.e. the Federal Industrial Relations and Disputes Investigation Act or the Labour Relations Act (1954) and Trade Union Act (1959) of British Columbia. There is a strong argument that fishermen should fall under provincial legislation. Shoreworkers and tendermen are already under such legislation so it would be a natural extension to bring fishermen under the same legislation as the majority belong to the same union, i.e. the U.F.A.W.U.. Also the legislation of the Province of British Columbia provides a more detailed and comprehensive control over the organizational and collective bargaining practices of unions and employer associations and more severe penalties for irregular or illegal practices than does federal legislation. This may be of special relevance in an industry as affected with the public interest as is fishing. Basically the provincial legislation would establish conciliation procedures for disputes, provide for supervised secret balloting for accepting or rejecting a conciliation board's recommendations, restrict the union and employers freedom to strike or lockout, place restrictions on picketing and provide penalties for illegal strikes or lockouts.

Although these rather stringent restrictions might be unpopular with organized fishermen, it only seems proper that if fishermen want the same benefits from protective labour legislation and exemption from the Combines Act and Criminal Code as other workers that they should be subject to the same or comparable legal restrictions on their union and collective bargaining activities.

If fishermen are deeded to come under federal jurisdiction, it would seem advisable to amend federal legislation to include the various provisions cited above in provincial statutes to apply to fishermen.

The advisability of stringent restrictions is based on the common property nature of the resource as well as the rather widespread opinion among a number of persons familiar with the west coast fishery that the U.F.A.W.U. engages in the very practices that would be prohibited by such restrictions. Also, there is widespread opinion that the lack of automatic conciliation procedures in the event of disputes was a contributing factor in the breakdown of negotiations which resulted ultimately in strikes and shutdowns. If the fishermen were brought under existing provincial legislation or under amended federal legislation as suggested above, conciliation procedures would come into play automatically. There is no present legislation by which conciliation procedures can be instituted automatically in the case of a dispute in the primary segment of the fishing industry. The Fisheries Act of British Columbia does provide for arbitration procedures in the event of price dispute in primary fishing, but only upon request of one of the parties involved. As mentioned earlier, this provision of the Act has been invoked only once, but came to a standstill with no arbitration award being made. Also, it provides only for binding arbitration and not conciliation.

The whole question of the status of fishermen is an important exogenous factor that has played a divisive role in the conduct of labour relations in

the fishing industry. Until some settlement is reached to clarify their status, little change in the output of the labour relations system seems possible. Preferably, the legal status of fishermen should correspond to their functional or economic status as suggested above.

Footnotes

- ¹ A special acknowledgment to Dr. Stuart Jamieson of the University of British Columbia is appropriate to this section. He provided much of the essential material pertaining to this question. He, of course, however, bears no responsibility for the views expressed.
- ² Summary Review, p. 90.
- ³ The Hours of Work Act specifically excludes allied workers from the 8 and 44 hour standard.
- ⁴ Summary Review, pp. 79-80.
- ⁵ In the "Lunenburg Case" in Nova Scotia at the end of World War II the court based its decision that crewmen on fishing vessels were not employees largely on the notion that they, together with the captains and vessel owners, collectively owned the fish when caught. This point does differentiate fishing crewmen from piece-rate workers in logging and mining in that there the employers own the resource when extracted. However, in view of the fact that crewmen do not share in the decision making process, this difference would seem a rather tenuous basis upon which to consider one group of workers on piece-rates employees and the other partners in a joint venture. This example was suggested by Prof. Jamieson.

SECTION VIII

Exogenous Factors that Affect the Conduct of Labour Relations - The Attitudes and Philosophy of The Union Leadership

The political complexion of the current leaders of the United Fisherman and Allied Workers has had an important influence on the output of the labour relations system in the fishing industry on the west coast.

The leaders and representatives of the union are well known for their militancy in both union and political activities. The political affiliations of a number of the leaders have been a subject of considerable controversy within the circles of organized labour in the past and need not be re-examined in this study.¹ Representatives of the fish and packing companies hold the leadership in respect for their militancy in regard to union matters and the general feeling among these representatives is that the present executive of the union works diligently for the basic economic interests of the members of the union.

This view would seem to be consistent with the observations of this investigator in that the membership of the union would appear to constitute individuals of widely ranging political and social views. As a generalization, the physical labour, danger and frequent isolation, associated with the primary fishing segment of the industry would especially seem to appeal to those individuals abounding in individualism and self-reliance. These characteristics, if anything, are seldom associated with persons sympathetic with what might be termed "collectivist" political views. This of course is in the realm of the sociologist and political scientist, however, and not

the economist. This investigator is not aware of any claims that the present executive of the union maintains power by other than the democratic elective procedures established by the union constitution.²

Therefore, it may be concluded that the present leaders have had and continue to maintain the general support of the rank and file membership and that this is secured by furthering the economic interests of these members, at least in their opinion.

The militancy of the present executive of the U.F.A.W.U. however goes beyond "bread and butter" trade union ends and enters into political ideology and radical reform. The official organ of the U.F.A.W.U., The Fisherman, published in Vancouver, reflects this viewpoint. Its editorial content and policy give what would appear, to the neutral observer, undue emphasis, in the context of a trade union paper, to events mostly political and often unrelated to issues in the fishing industry, which stress portraying the Soviet Union and its satellites in the most favourable light while placing some western nations in an undesirable role. Issues such as the Viet-Nam situation and the recent Middle-East crises are "reported" and editorialized to follow what appear to be preconceived value judgements based on the political outlook of the union executive and editor of the paper.

Of course the majority of the content of the paper relates to industry and trade union issues pertinent to the fishing industry, but the political ideology of the union leadership is readily apparent in its reporting of activities of the companies and relations between the union and the companies. These reports are often filled with emotionalism, name calling and innuendo.

The reaction on the part of the companies, acting through the official organ of the Fisheries Association of British Columbia, Facts on Fish, has been an attempt to match The Fisherman with editorializing and reporting

that also abounds in name calling, unsupported accusations, etc.. The result is that both of the publications tend to emphasize on clashes and conflicts of interest between the fishermen and allied workers and the fishing and packing companies. No effort is made to explore the community of interests that are common to these groups and no effort is made to seek mutual co-operation.³ The open hostility between the two publications can only be viewed as a divisive force in the labour relations system in this industry. In discussing the unnecessary and unwarranted hostility between the official organs of the fishermen and companies, we have entered into the question of the expression of political and social views which is far beyond the scope of this investigation. In no sense have the above comments been intended to suggest that such expression is undesirable. For our purposes, which is an investigation of labour relations in the industry, the content of the above publications is relevant in so far as it affects these relations. Aside from the fact that the political viewpoint and overtones expressed in The Fisherman and the reaction to them in Facts on Fish set up a generally unfriendly and antagonistic atmosphere, the main effect has been to entrench in the minds of the company representatives a host of suspicions concerning the ultimate aims and intentions of the union or at least its present executive. The effect of which is a sub-optimal communications chain which can only hinder to labour relations in the industry. The insistence on the part of the companies that fishermen should not be subject to existing labour legislation because they have no "employee" status, is, in the opinion of this investigator, basically a lack of acceptance of the U.F.A.W.U. as a trade union seeking what they consider legitimate trade union ends. If the fishermen were included under existing provincial labour legislation or similar federal

legislation, it would appear to be to the companies benefit in that many existing practices of the union, either real or imagined, would be prohibited and it would normalize the relations with the union.

The whole question of the political complexion of the union executive, and the companies reaction to it, unlike the issues treated earlier in this investigation, is an exogenous factor affecting the conduct of labour relations in the fishing industry. There is nothing inherent in the economic conditions or institutional factors in the industry which cause this question to be significant. The same question could be relevant in any industry. Once again, it should be stated that the merits or demerits of the particular political philosophy of the present union executive is not at question here. The sole relevance was to examine it and how it was expressed affected the conduct of labour relations in the west coast fishing industry.

Indeed, it should be noted that representatives of the companies have also acted in ways to create suspicions as to their intent, in the minds of the union leadership. The cause for the poor communication and air of suspicion over motives and intent cannot be laid at the doorstep of either the union or the companies. No assignment of blame is necessary even if it were possible to do so. This situation does exist, for whatever the reasons, and it seriously impedes the functioning of the labour relations system.

Footnotes

- ¹The U.F.A.W.U. was expelled from the Trades and Labour Congress in the early 1950's because of communist domination, and only recently has been admitted to the Canadian Labour Congress.
- ²There is, however, a general consensus among representatives of the major fishing and packing companies that strike votes have been improperly conducted. The implication is that strikes have been conducted without the majority support of the union members. There is no documented evidence of this having occurred, however, available to support this contention.
- ³One area of mutual interest would be a co-operative dialogue between the companies and the union regarding proposals and means to attain an economic rationalization of the west coast fishery, e.g. licence limitation. The absence of such co-operation can only hinder the ultimate resolution of the problem of making the industry economically viable.

SUMMARY AND CONCLUSIONS

This study has been a brief attempt to examine the conduct of labour relations in the fishing industry. The west coast fishery is the only area where extensive unionization is present and therefore has of necessity been the focal point of the study.

Fishing is unique in many respects. There is a strong sentiment that it constitutes a "way of life" rather than merely a means of earning a living. This sentiment has most serious implications for policies designed to make the industry more viable economically because of the immobility it may produce, but also flavours labour relations as well. The hesitation to actively seek some workable form of licence limitation to reduce or even maintain the number of active fishermen and the lack of objection to regulations which perpetuate inefficient and/or prevent the introduction of the most efficient methods, undoubtedly stems from a desire to preserve this "way of life". The lack of economic viability affects labour relations in general but the precise affect is a matter of conjecture. This investigator is sympathetic with the view that a more healthy industry would contribute to a more satisfactory output from the existing labour relations system.

Another unique aspect of the fishing industry which has been considered is that the most important single group in the labouring segment of the industry, i.e. the primary fishermen, are not considered as being employees and therefore do not come under the provisions of either provincial or federal labour legislation. The uncertain status of fishermen is perhaps the most important

divisive factor in the labour relations of the industry. Minimum price agreements between fishermen and buyers are, by a moratorium, not held to contravene the Combines Act or Criminal Code but the fishermen are not held subject to the labour legislation deemed desirable for other groups of labour that are functionally not distinguishable from the majority of fishermen although legally they may not fit nicely into the category of "employee".

This investigation has suggested that the output of the existing labour relations system has, in retrospect, been quite satisfactory in regards to the allied workers and tendermen in the industry. These two sub-groups have the unambiguous status of "employees" and therefore are subject to provincial labour legislation unlike primary fishermen even though all three groups are represented, in the main, by the very same union.

These factors and others which are inherent to the industry, i.e. "The way of life" sentiments, the "share" or "lay" method of payment to fishermen (which is a primary reason for not recognizing their functional employee status), the extensive regulation and control imposed on the conduct of the industry (because of the common property nature of the resource being exploited), the harvesting process that tends to lead labour and management (or legalistically fishermen and the fishing buying companies) to "crisis bargaining", all might be termed endogenous factors that condition the conduct of labour relations in this industry and provide for the many unique aspects of the industry.

In addition to the above mentioned endogenous factors, certain exogenous influences play a role in the industry's labour relations system. These influences, unlike the endogenous factors, are not inherent to the fishing industry but enter from the outside as it were. Basically, these influences involve the question of how the political views of the present union executive,

with the resulting effects on the behaviour of the major companies, influence the output of the system. For reasons discussed earlier, the overall effect is, in the opinion of this investigator, undesirable in that an air of conflict, hostility and suspicion between the union and employers has, unfortunately, become a familiar aspect to union-management relations in this industry. Again let it be explicitly pointed out that this conclusion was not based upon the nature of specific political views held by the union executive, nor was any judgement, favourable or unfavourable, implied as to the right of individuals to free political expression. The only legitimate concern of this study was to determine the effect that the political views of the union executive have had on the labour relations of the industry.

This investigator concludes that there is nothing inherent in the industry which should prevent the satisfactory functioning of a sound and constructive labour relations system. There are, however, two major stumbling blocks that must be resolved and these lead directly to the two basic recommendations of this study.

1. The Federal Government, working through the Department of Fisheries and in co-operation with U.F.A.W.U. and the companies must work diligently and earnestly for an equitable means to limit the number of fishermen and gear so as to permit the fishing industry to attain and maintain a viable and efficient operation.
2. The status of primary fishermen must be once and for all clearly delineated.

The first recommendation goes somewhat beyond the immediate scope of this investigation. This investigator is fully aware of the complexity of the problem that licence and gear limitation imposes because of the conflicting interests and aims of many of the affected parties. To be successful, any

such measure must be accompanied by long run proposals to ease the burden and hardship that some individuals will likely be subject to.¹ This consideration is particularly relevant in those areas where existing fishermen and future fishermen lack mobility, e.g. the east coast fishery.

It is particularly alarming to note that little, if any, progress has been made in regards to this problem, until very recently. All of the interested groups, i.e. labour, the packing and processing companies and the Federal Department of Fisheries regard as highly desirable a "rationalization" of the fishing industry but little effective action has been taken in the past. Because of the conflicting interests and the atmosphere of antagonism between labour and the companies, it is not too surprising to find little discourse between them in regards to rationalization. Happily, the Department of Fisheries has recently announced a programme of licence limitation in the salmon fishery.² This programme, to be implemented in 1969, will in effect limit the number of vessels in the fishery over time by setting up two categories of vessels one of which cannot be replaced by a new vessel and the other which can be. Ultimately, the former category, in which boats producing under a specific volume of fish are included, will disappear. Clearly, as the regulating agency of the Federal Government in this industry, with a neutral status when it comes to labour-management relations, the Department of Fisheries must take the lead in making concrete proposals and reconciling the conflicts of interest between labour and the companies in order to secure a workable licence and/or gear limitation scheme. The Fisheries Department has, after a number of years of inactivity in this area, taken on its responsibility, however the specific limitation scheme brought forth will likely result in substantial controversy. The U.F.A.W.U. has attacked the proposal's vesting

of licences with the fishing vessel rather than with fishermen themselves and also has indicated that it, the union, was not consulted prior to the announcement of the programme.³ Hopefully, consultation between interested parties and the Fisheries Department will ultimately resolve existing dissatisfactions and yield a mutually acceptable and workable scheme that will lead to a successful rationalization of this segment of the primary fishing industry. Such a rationalization could substantially improve the conduct of labour relations in the whole industry. Any such programme, even when fully implemented would of course require a reasonable amount of time after being enacted before the complete effects could be ascertained.⁴

The second recommendation is perhaps even more crucial to the attainment of a satisfactory labour relations system in the fishing industry. There must be a formal resolution to the current and continuing ambiguous status of primary fishermen. It is extremely inconsistent to implicitly grant the status of "employee" to fishermen for some purposes, e.g. Workmen's Compensation legislation, and to deny this status for other purposes e.g. coverage under either provincial or federal labour legislation.

The current moratorium, which is apparently to run indefinitely, merely perpetuates the ambiguous status of these workers. Moreover, they in effect enjoy the right to bargain collectively and in general act as a legitimate trade union, but because they (the primary fishermen) are not subject to any existing labour legislation,^{they} are not subject to the same legal restrictions as are other workers in their trade union and bargaining activities.

This investigator is of the opinion, as noted in an earlier section, that the legal status of primary fishermen should correspond to their functional or economic status. Their functional status is clearly that of "employee" rather than that of a "partner in a joint venture". The factors inherent

in the industry which prevent these labourers from fitting nearly into the legal status, as presently recognized, should not obscure their functional status. The clear intent of existing labour legislation, either federal or provincial, is to recognize as "employees" those that function in the capacity of employee. If primary fishermen are granted the status of "employees" then the question of jurisdiction arises. Constitutional questions aside, there is merit, in the opinion of this investigator, of making primary fishermen on the west coast subject to the existing provincial labour legislation of British Columbia or of similarly amended federal legislation. This view is supported by the fact that many of the restrictive provisions of the above legislation would counter many of the undesirable practices that the United Fishermen and Allied Workers Union supposedly engages in.

The role of exogenous factors has already been commented upon at some length and little more can be added. It should be pointed out, however, that as an exogenous or outside factor, the political complexion of the current union executive and the effects that it has on the conduct of labour relations in the industry, is not an inherent factor in the normal functioning of the industry. That is to say that the same exogenous force could occur in any industry, large or small. It is very difficult to forecast how this factor will affect labour relations in the future. As long as the present executive or a future executive of the same ilk maintains power, the same effects will be present in the future. There is no reason to suspect that the present executive has maintained its dominance by other than democratic procedures so therefore there is no scope for proposals to remove the leadership. It would be a serious ^{retrograde} step in the progress of labour relations to entertain such a proposal. However, because of this exogenous factor, it may be even more crucial to resolve the

status of fishermen such that they are deemed "employees" and therefore are subject to labour legislation, either existing or as amended.

In conclusion, it seems appropriate to restate that, in the opinion of this investigator, there is nothing inherent in the industry to prevent the functioning of a satisfactory labour relations system. Once the two major areas of conflict (the subjects of the two earlier policy recommendations) are resolved, the labour relations system in the fishing industry will take its appropriate role of providing the necessary and beneficial means of collectively resolving disputes in this industry.

Footnotes

- ¹ The long run solution of licence and gear limitation is basically the question of removing existing factors and preventing the entry of new factors of production into the industry. As such, it is very similar to what might be termed the problems of "agricultural poverty" or that of "declining industries". A satisfactory long run solution would likely include proposals such as (1) subsidized retraining, (2) subsidized travel and moving and (3) permanent subsidies to permanently immobile, e.g. superannuated labour etc..
- ² The programme was announced on September 6, 1968 by the Hon. Jack Davis, Minister of Fisheries.
- ³ See, The Fisherman, September 13, 1968.
- ⁴ There are two implications of the recent licence limitation proposal that are cause for concern. The first is that the proposal will have the likely effect of permanently reducing the number of Native fishermen operating in the salmon fishery over time. This will occur by virtue of their relatively small scale operations which are the type of licences that will not be replaced under the scheme. To the extent that this does occur, it will undoubtedly create problems for the Indian Affairs Branch in the area of welfare considerations and also because access to fishing is considered a traditional right by Native fishermen. The other implication is one that has been raised by the U.F.A.W.U.. Representatives of the union have expressed concern that the announced programme will tend to eliminate the independent fishermen. In as much as the licences are to be vested in the vessel rather than in the fishermen themselves, there may well be a tendency for the companies, who already finance many fishermen, to acquire more of the existing boats (licences). The effects of this concentration would be difficult to predict, however it would appear that such an event would increase the need for a clarification of the status of fishermen.

Appendix: Individuals Contacted in Conjunction

With This Study

Mr. Emil Bjarnason, Trade Union Research Bureau, Vancouver B.C.

Mr. Blake Campbell, Department of Fisheries, Vancouver, B.C.

Mr. Ken Campbell, Fisheries Association of British Columbia, Vancouver, B.C.

Professor James Crutchfield, University of Washington, Seattle, Washington.

Mr. George R. Currie, Department of Labour, ret., Vancouver, B.C.

Mr. Bill Harrison, British Columbia Packers, Vancouver, B.C.

Dr. Stuart Jamieson, University of British Columbia, Vancouver, B.C.

Dr. Tait Montague, University of British Columbia, Vancouver, B.C.

Mr. Paul V. Mulkern, U.S. Department of Labor, Bureau of Labor Statistics,
Boston, Mass.

Mr. Jack Nichol, United Fishermen and Allied Workers Union, Vancouver, B.C.

Mr. Don Tysoe, Department of Labour, Vancouver, B.C.

Dr. Charles L. Vaughn, Business Research Bureau, Boston College, Boston, Mass.

Dr. Donald J. White, Boston College, Boston, Mass.

Mr. A. S. Whiteley, Restrictive Trade Practices Commission, Ottawa.

